

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE OR WAIVER BY
SHUHUAN LIU**

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| FILED | |
| <small>Department of Business and Professional Regulation</small> | |
| Deputy Agency Clerk | |
| CLERK | Brandon Nichols |
| Date | 2/21/2017 |
| File # | 2017-01366 |

VW 2016-274

ORDER GRANTING PETITION

Petitioner, Shuhuan Liu, filed a petition for a permanent variance from the requirements of Rule 61H1-27.001(5)(a), Florida Administrative Code (FAC), on December 8, 2016. The notice of the petition appeared in the Florida Administrative Register on December 22, 2016, in Volume 42 Number 247; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on January 20, 2017, in Tampa, Florida. At the hearing on this matter, Petitioner was present; the Board was represented by Mary Ellen Clark, Senior Assistant Attorney General.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner is an applicant for licensure by examination pursuant to Section 473.308(2), Florida Statutes (FS). Petitioner has been notified by the Board office that she is deficient three (3) semester hours of graduate level courses in taxation from an accredited institution, as required by Rule 61H1-27.001(5)(a), FAC.

2. Petitioner graduated from the Zhongnan University of Economics and Law in Wuhan, Hubei, China and received a degree she states is equivalent to a baccalaureate degree. Zhongnan University of Economics and Law is not accredited in the manner provided by Rule 61H1-27.001, FAC. Petitioner graduated from Florida State University

(FSU) with a Master in Accounting; FSU accepted her non-accredited baccalaureate degree for admission.

3. The courses Petitioner completed within the graduate program at FSU included 45 semester hours in upper level accounting courses, including Federal Tax Accounting 1 and II, as a graduate student.

4. Since graduation, Petitioner has worked in public accounting for PWC for a year and four months.

5. Rule 61H1-27.001(5)(a), FAC, provides that “[a] graduate of a four-year degree granting institution not accredited at the time the applicant’s degree was received or at the time of filing application will be deemed to be a graduate of a four-year accredited college or university course provided an accredited college or university as defined by subsections 61H1-27.001(1) and (2), F.A.C., accepts applicant’s non-accredited baccalaureate degree for admission to a graduate business degree program; the applicant satisfactorily completes at least 15 semester or 22 quarter hours, or the equivalent, in post-baccalaureate education at the accredited institution of which at least 9 semester or 13 quarter hours, including at least 3 semester or 4 quarter hours in taxation; or the equivalent, shall be in accounting; and the accredited college or university verifies that the applicant is in good standing for continuation in the graduate program (or has maintained a grade point average in these courses that is necessary for graduation).”

6. Petitioner seeks a permanent variance from the requirements of Rule 61H1-27.001(5)(a), F.A.C., to the extent necessary for the Board to determine she has met the educational requirements for licensure by examination.

GROUNDS FOR APPROVAL

The Board determined that the petition for variance from the requirements of Rule 61H1-27.001(5)(a), F.A.C., should be granted on the following grounds:

7. Petitioner established that the purpose of the underlying statute, Section 473.306, FS, would be met were she to be granted a variance from Rule 61H1-27.001(5)(a), FAC, based upon her completion of the following:

- A. A total of 45 hours of upper/graduate level accounting courses;
- B. Three hours of Federal Tax Accounting 1 (graduate);
- C. Three hours of Federal Tax Accounting II (graduate);
- D. A Master of Accounting at FSU, rather than just the minimum of 15 semester hours required by Rule 61H1-27.001(5)(a), FAC; and
- E. One year and four months of experience at PWC.

8. Petitioner further established that the Board's application of Rule 61H1-27.001(5)(a), FAC, to her circumstances would violate principles of fairness and impose a substantial hardship on her.

It is therefore **ORDERED** that the petition be **GRANTED**.

This Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 15th day of February, 2017,
by the Florida Board of Accountancy.

Veloria A. Kelly
Veloria A. Kelly, Division Director ✓

NOTICE TO APPLICANT

You may seek review of this Order, pursuant to Sections 120.569 and 120.57, Florida Statutes, by filing a petition with the Division Director of the Board, 240 Northwest 76th Drive, Suite A, Gainesville FL 32607, within 21 days of receipt of this Order. If you dispute any material fact upon which the Boards decision is based, you may request a hearing before an administrative law judge pursuant to Section 120.57(1), FS; your petition must contain the information required by Rule 28-106.201, FAC, a copy of which is enclosed, including a statement of the material facts which are in dispute. If you do not dispute any material fact, you may request a hearing before the Board pursuant to Section 120.57(2), FS; your petition must include the information required by Rule 28-106.301, FAC, a copy of which is enclosed. If you request a hearing, you have the right to be represented by an attorney or other qualified representative, to take testimony, to call or cross-examine witnesses, to have subpoena and subpoena duces tecum issued, and to present written evidence or argument.

Pursuant to Section 120.573, FS, you are hereby notified that mediation pursuant to that section is not available.

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Certified mail to Shuhuan Liu, 5937 Topher Trail, Mulberry, Florida 33860; and to Jesslyn Krouskroup, Chief Attorney, Joint Administrative Procedures Committee, 111 W. Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and Mary Ellen Clark, Senior Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 21st day of February, 2017.

Brendan M. Nicks

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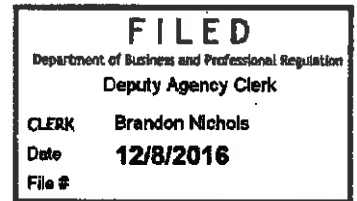
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Variance Granted

Sent to Shuhuan Liu - 342667
Street, Apt. No. or PO Box No. 5937 Topher Trail
City, State, ZIP+4 Mulberry, Florida 33860

PS Form 3800, August 2016 See Back for Instructions

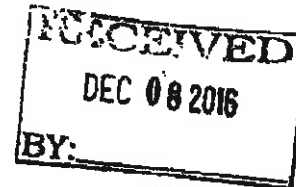
December 1, 2016



VW 2016-274

SHUHUAN LIU
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LIUSHUHUAN1990@GMAIL.COM
PHONE: (813) 508-3569

Florida Board of Accountancy
240 Northwest 76th Drive, Suite A
Gainesville, FL 32607



RE: CPA Testing and Licensure Application
Board of Accountancy
Application Number 342667, Profession: 0101

PETITION FOR VARIANCE FROM RULE 61H1-27.001

The applicant, SHUHUAN LIU, files this Petition for Variance for Licensure as a Certified Public Accountant and offers the following considerations:

CONSIDERATION I: EDUCATION

1. **Undergraduate education.** The applicant received her undergraduate collegiate education at Zhongnan University of Economics and Law in Wuhan, Hubei, China. The total number of earned credit hours summed 156 in a translated equivalency by Josef Sily & Associates, Inc. International Education Consultants, an approved transcript translator for the Certified Public Accounting examination and licensure. No qualified accounting courses were taken during the undergraduate collegiate experience.
2. **Graduate admissions.** The applicant was admitted to the Florida State University College of Business as a non-accounting major student seeking the degree of Master of Accounting (MAcc) being required to complete the foundation coursework. The foundation coursework included an equivalency of an accounting undergraduate major including two (2) 4000 or senior level Federal Tax Accounting courses.
3. **Graduate education.** The applicant sought and received a Master of Accounting degree with a concentration in Assurance. Relying on the guidance of advisors, the course selection was taken with the expectation of being sufficient to qualify for licensure as a Certified Public Accountant. The accredited institution is located in the State of Florida and advertises that

1. <http://business.fsu.edu/docs/default-source/cob/department-docs/graduate-programs-brochures/2016-2017-brochure-macc-for-non-acc-majors.pdf>

"completion of the program can fulfill the educational requirements to sit for the Uniformed Certified Public Accountant (CPA) examination and be licensed in the state of Florida and most other jurisdictions."

CONSIDERATION II: FLORIDA STATUTES

1. **Examination (FSS 473.306)**. A person desiring to be licensed as a Florida certified public accountant shall apply to the department to take the licensure examination. An applicant is entitled to take the licensure examination to practice in this state as a certified public accountant if the applicant has completed 120 semester hours...from an accredited...university with a concentration in accounting and business courses as specified by the board by rule. Further details on interpretation and modification are found in the Florida Administrative Code.
2. **Rules of board (FSS 473.304)**. The legislature provided authority to the Board of Accountancy to adopt rules pursuant to FSS 120.536(1) and 120.54. FSS 120.536(1) provides the board with the authority to adopt rules that implement or interpret the specific powers and duties granted by the enabling statute. The applicant believes the board duly promulgated rules according to FSS 120.536(1) and 120.54.
3. **Variances and waivers (FSS 120.542)**. FSS 120.542(1) addresses the application of variances and waivers on the premise that strict application of uniformly applicable rules requirements can lead to unintended results in particular instances with agencies being authorized to consider specific circumstances of an individual to grant a variance insofar as the underlying intent of the statutes are satisfied.
Under FSS 120.542(2), the applicant can demonstrate a substantial economic and personal hardship considering the circumstances of full-time employment at Pricewaterhouse Coopers after full and successful completion of both undergraduate and graduate coursework as awarded degrees were achieved. The applicant is continuing pursuing the certified public accounting designation by working under a licensed CPA and ardently preparing for the CPA examination. By not granting a variance, the applicant would be required to re-enroll as a degree seeking student to take a course which would otherwise be satisfied under the foundational coursework for non-accounting majors and would create a major setback to the fulfillment of the additional criteria required for licensure as a certified public accountant in the State of Florida. Such a requirement could material impact both the financial aspect from loss of hours and/or work relationship and work-hours aspect of the applicant towards fulfilling FSS 473.308(4)(a) requirement of 1 year of work experience under and verified by a certified public accountant.
4. **Legislative intent**. While Chapter 473 of the Florida Statutes does not contain a specific section detailing the legislative intent, the applicant argues the legislative intent is found in FSS 473.301

2. http://business.fsu.edu/docs/default-source/cob/Department-Docs/graduate-programs-brochures/2016-2017-brochure_macr_for_non-rca_majors.pdf

establishing criteria for standards to assure the minimum competence of practitioners in the State of Florida, among which are educational achievements in the coursework of accounting major graduates. The applicant believes the achieved education from Florida State University satisfies the underlying statute(s).

5. **Statutory consistency.** The applicant believes the foundational coursework for non-accounting majors undertaken at Florida State University and the additional coursework undertaken to receive a Master of Accountancy satisfies the accounting related coursework criteria set forth in the Florida Statutes to the extent specified by the board under FSS 473.308(3).

CONSIDERATION III: FLORIDA ADMINISTRATIVE CODE

1. **Rule 61H1-27.001.** The promulgation of this rule is an iteration of FSS 473.306 detailing and expanding on the scope of attaining educational requirements for students and applicants from accredited and non-accredited colleges and universities. This rule expands upon the limited scope of the statute by addressing non-accredited colleges and universities.
2. **Rule 61H1-27.001(5)(a).** Upon applying for licensure, the applicant became aware of the referenced rule regarding College or University Requirements for students who are a graduate of a four-year degree granting institution not accredited at the time the applicant's degree was received. The rule states, in part, "the applicant satisfactorily completes at least 15 semester hours...in post-baccalaureate education at the accredited institution...including at least 3 semester...hours in taxation..." The adherence to this rule is satisfied as written as all of the applicant's applicable accounting coursework was achieved while a graduate degree seeking student at Florida State University, including 6 semester hours of taxation.
3. **Rule 28-104.002.** The applicant is requesting a permanent variance to the interpretation of Rule 61H1-27.001 under the titled Rule and is petitioning accordingly. The applicant does not believe this to be a waiver on account the foundational coursework satisfies the intent of the statutes and FAC rules. The consideration of timing of coursework, admissions to an accredited university, degree seeking and attainment, and good faith and belief in advisory guidance from university faculty should suffice to merit a variance under this rule and FSS 120.542.

CONSIDERATION IV: PRECEDENCE

1. **Precedence:** The applicant is unaware of any specific ruling by the board granting variance or waiver from Rule 61H1-27.001(5)(a). However, faculty from Florida State University advised another student was granted a similar variance or waiver from the rule. If true and valid, granting such a waiver or variance from the rule in this particular instance would be consistent
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3. Email from faculty; see accompanying documentation

with prior board action. The applicant requests the board to review for precedence if deemed necessary to consideration.

WHEREFORE, the applicant, **SHUHUAN LIU**, petitions the board to consider and grant a permanent variance to Rule 61H1-27.001(5)(a) for the reasons set forth above. Such a variance is believed to be consistent with the legislative intent and statutory provisions towards licensure of a certified public accountant. The applicant would experience a hardship if a variance is not granted.

I HEREBY CERTIFY that the above assertions, iterations, and considerations are true and accurate to the best of my knowledge.

SHUHUAN LIU
5937 TOPHER TRL
MULBERRY, FL 33860
PHONE: (813) 508-3569

By: 

Shuhuan Liu
Application Number 342667

cc: Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400