

STATE OF FLORIDA
BOARD OF ACCOUNTANCY

DS 2007-040

IN RE: PETITION FOR DECLARATORY STATEMENT BY
CROWE CHIZEK AND COMPANY LLC

Final Order No. BPR-2007-09639
FILED

Date: 12-12-07

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

FINAL ORDER:

By: 

THIS MATTER came before the Board of Accountancy (Board) pursuant to Section 120.565, Florida Statutes (FS), at a duly-noticed public meeting on October 19, 2007 in Tampa, Florida, for a hearing on the Petition for Declaratory Statement filed by Crowe Chizek and Company LLC (Petitioner) on August 7, 2007, for an interpretation of Section 473.321, FS, and Rule 61H1-26.001, Florida Administrative Code (FAC) regarding corporate firm names. The notice of the petition appeared in the Florida Administrative Weekly on August 31, 2007, in Volume 33, Number 35. No comments by interested persons were received. No one representing Petitioner was present at the meeting. The Board was represented by Mary Ellen Clark, Assistant Attorney General. Having considered the petition, the Board makes the following findings and conclusions

FINDINGS OF FACT

1. Certified Public Accountants (CPAs) are regulated under Chapter 473, Florida Statutes (FS).
2. Petitioner is a CPA firm licensed to practice in Florida under the name "Crowe Chizek and Company LLC," (Crowe Chizek).
3. Section 473.321, FS, sets forth the requirements for a CPA to practice under a fictitious name that is not misleading or deceptive as to the legal form or as to persons who are partners or shareholders of the firm; this section specifically allows a firm name to

include the names of retired or deceased persons who were once active partners, shareholders, or members of the firm.

4. Rule 61H1-26.001, FAC, further specifies the requirements of corporate practice.

5. The names "Crowe" and "Chizek" are the surnames of men who were previously licensed shareholders of the firm in an earlier legal form.

6. Petitioner is a member firm of Horwath International, an association of separate member firms located in various countries. Horwath International does not render any professional accounting services and will not perform any accounting services in Florida. Petitioner's membership in Horwath International is designed to allow it to compete locally by enabling it to provide assistance globally to clients. Horwath International does not own any interest in Crow Chizek, but its bylaws require the member firm to include "Horwath" in the firm name as a condition of membership.

7. The name "Horwath" is not the surname of anyone who was previously a licensed shareholder of the firm in an earlier legal form.

8. Petitioner desires to change its firm name to "Crowe Horwath LLP" and seeks a determination that its proposed name is not misleading or deceptive as prohibited by Section 473.321, FS, and Rule 61H1-26.001, FAC. Petitioner specifies its engagement letters, letterhead, business cards, and other significant literature would all indicate that Crowe Horwath LLP is a separate member firm of Horwath International.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter pursuant to Section 120.565, Florida Statutes.

2. The Board concludes that Petitioner has offered sufficient information to grant

the petition. Therefore;

3. The Board hereby answers Petitioner's aforementioned question in the positive as follows:

The proposed name "Crowe Horwath LLP" is not misleading or deceptive as prohibited by Section 473.321, FS and Rule 61H1-26.001, FAC, provided the firm engagement letters, letterhead, business cards, and other significant literature all indicate that Crowe Horwath LLP is a separate member firm of Horwath International.

DONE AND ORDERED this 4th day of December, 2007.

BOARD OF ACCOUNTANCY


Veloria A. Kelly, Division Director

NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(D), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was furnished by U.S. Mail to Charles M. Allen, Crowe Chizek and Company LLC, P.O. Box 3697, Oak Brook, Illinois, 60522-3697; Stanley J. Parzen, Esquire, Mayer Brown LLP, 71 South Wacker Drive, Chicago, IL 60606-4637 and by interoffice mail to Mary Ellen Clark, Assistant Attorney General, Administrative Law Section, PL-01 The Capitol, Tallahassee, Florida 32399-1050, this 12th day of December, 2007.

Stacy Washman