

STATE OF FLORIDA
BOARD OF ACCOUNTANCY

IN RE: PETITION FOR VARIANCE BY
CLAYTON ROWE

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/17/2012
File #	2012-00277

VW 2011-281

ORDER

Petitioner, Clayton Rowe, filed a petition for a permanent variance from Rule 61H1-27.0041(2), Florida Administrative Code (FAC), on September 6, 2011. The notice of the petition appeared in the Florida Administrative Weekly on September 30, 2011, in Volume 37 Number 39; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy held on December 2, 2011, in Tallahassee, Florida. At the hearing on this matter, Petitioner was present. The Board was represented by Mary Ellen Clark, Assistant Attorney General.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner applied for licensure in Florida as a certified public accountant (CPA) by examination on August 3, 2011.
2. Section 473.308(4), Florida Statutes (FS), provides that an applicant for licensure must show one year of work experience (applicants who applied for licensure prior to December 31, 2008 and passed the examination on or before June 30, 2010, are exempt from this requirement). Rule 61H1-27.0041, FAC, specifies the manner in which the one year of work experience must be documented.
3. Rule 61H1-27.0041(2), FAC, provides in part that "one year of work experience shall be held and understood to mean the rendition of services such as are customarily

performed by full-time, regularly employed staff employees of a certified public accountant during the normal workweek as required by the employing certified public accountant, commencing after the completion of the educational requirements set forth in subsection 61H1-27.002(3), F.A.C.”

4. Petitioner graduated with a Bachelor of Science degree in Business Administration from Robert Morris College in December, 1994.

5. Petitioner completed the additional education requirements to be eligible to take the examination in Florida in August, 2009, and passed the fourth portion of the examination on June 24, 2011.

6. From November, 2000, until February, 2005, Petitioner worked under the supervision of a CPA. Petitioner is still employed at the same company but, he no longer works under the direct supervision of a CPA.

7. Petitioner seeks a permanent variance from Rule 61H1-27.0041(2), FAC, to the extent necessary for the Board to find that the supervised experience he completed prior to meeting Florida education requirements for CPA licensure satisfies the one year work experience requirement for licensure.

Grounds for Approval

The Board determined that the petition for variance should be granted on the following grounds:

8. Petitioner established that the purpose of the underlying statute, Section 473.308(4)(a), FS, would be met were he to be granted a variance from the rule in that he has completed more than four years of experience under the supervision of a licensed CPA.

9. Petitioner further established that the Board's application of Rule 61H1-27.0041(2), FAC, to his circumstances would violate principles of fairness and would impose a substantial hardship on him.

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 9th day of January, 2011²
by the Florida Board of Accountancy.



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 Board's 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 Clayton Rowe, 247 Prince Phillip Drive, St. Augustine, Florida 32092, and to Jesslyn Krouskroup, Chief Attorney, Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 W. Madison Street, Tallahassee, Florida 32399-1400, and Mary Ellen Clark, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050 this 17th day of January, ~~2011~~ 2012.

Brandon M. Nichols

7010 1870 0000 4473 6273	U.S. Postal Service CERTIFIED MAIL RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
	For delivery information visit our website at www.usps.com .	
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	Postage \$	Postmark Here
	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees \$		
Sent To <u>Clayton Rowe</u>		
Street, Apt. No., or PO Box No.		
City, State, ZIP+4		
PS Form 3800, August 2005 See reverse for instructions		

RECEIVED

SEP 06 2011

BOARD OF ACCOUNTANTS

FILED	
Department of Business and Professional Regulation AGENCY CLERK	
CLERK	Ronda L. Bryan
Date	9/6/2011
File #	

September 6, 2011

Re Board of Accountancy
Exam Application Number: 216606, Profession: 0101

Ladies and Gentlemen of the Board,

VW2011-281

I am writing to obtain a permanent waiver from Rule 61H1-27.0041(2), which states in part that the work experience commences after the completion of the educational requirements set forth in subsection 61H1-27.002(3). Rule 61H1-27.0041(2) implements Section 473 308(4) which reads in part, An applicant for licensure after December 31, 2005, must show that he or she has had 1 year of work experience. This experience shall include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which must be verified by a certified public accountant who is licensed by a state or territory of the United States and who has supervised the applicant. This experience is acceptable if it was gained through employment in government, industry, academia, or public practice; constituted a substantial part of the applicant's duties; and was under the supervision of a certified public accountant licensed by a state or territory of the United States. The board shall adopt rules specifying standards and providing for the review and approval of the work experience required by this section. I received a letter dated August 4, 2011 from the Department of Business and Professional Regulation stating that my application for licensure was deficient a Certificate of Work Experience form due to the fact that my four years experience working for a CPA ended before I met the requirement to sit for the CPA exam. I believe my request for permanent waiver merits consideration by the Board for the reasons laid out below.

I am an accounting professional with over 16 years of experience in industry. My experience includes work in accounts payable, accounts receivable, collections, payroll, fixed assets, general ledger, budgeting, management, financial statement preparation, forms 10-Q and 10-K reporting, and tax provision preparation all of which commenced after the completion of my undergraduate degree. I obtained my undergraduate degree as an accounting major from Robert Morris College (now Robert Morris University), a fully accredited, private institution outside Pittsburgh, PA in December 1994. I received my MBA with an Accounting Concentration from the University of North Florida in 2007.

My application for licensure included a Certificate of Work Experience demonstrating over four years of service with my current employer under my previous supervisor, who resigned his position in 2005. Additionally, I have a combined ten years previous experience under the supervision of three separate CPAs with licenses that fell inactive due to insufficient CPE requirements.

The stated mission of the Board is to promote consumer protection by ensuring that certified public accountants and firms meet and adhere to the statutory requirements for licensure. I am not seeking a waiver from Florida Statute 473 308(4) as I have at least one year experience working under the supervision of a Florida CPA in an accounting capacity. I am seeking a permanent waiver from Rule 61H1-27.0041(2). I do not believe the public is afforded better protection from the completion of any undergraduate courses taken after the completion of my bachelor's and master's degrees and after completion of over four years of work experience under the supervision of a CPA. The order in which I completed my qualifications to sit for the exam and the completion of any undergraduate course work at

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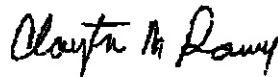
DBPR Agency Clerk

the University of North Florida neither better prepared me to sit for the exam nor execute the duties required of a CPA nor changed the nature of my over 16 years of work experience. My undergraduate studies prepared me for a successful career as an accountant despite the fact that Robert Morris University is not subject to Florida's Statewide Course Numbering System. My understanding of Rule 61H1-27.002(4b) is that if the course number of my Undergraduate classes were to retroactively change to the 3000 level, I would meet the requirement despite the fact that the material covered in the class would not have change. Therefore, it is likely I would have met the educational requirement upon the completion of my undergraduate course work in 1994 under Florida's numbering system.

I have over 10 years experience with my current employer and have enjoyed increasing levels of responsibility. There is not a CPA in my current company at a higher level to whom I am able to report. I will not be able to complete the work requirement of an additional one year of work experience under the supervision of a CPA and continue with my current employer in my current role. I do not wish to leave my current employer and the current economic and job climates are not the most opportune for switching jobs. The new One Year of Work Experience Rule was implemented after the completion of my MBA and after eight years of service with my current employer. I believe the new rule creates a hardship for me. I must either allow my CPA Exam grades to expire and forego licensure or sever my ten year working relationship with my current employer. Even if I were to report to a CPA in my current role for this company or another, it would neither change my working responsibilities going forward nor enhance the accounting experience I have attained over the past 16 years. It is for these reasons and in light of my educational achievements, extensive accounting experience, and prior accounting experience under the supervision of a CPA that I believe my request for permanent waiver from Rule 61H1-27.0041(2) deserves consideration by the board.

I have been advised by the State Attorney General's office that the Board will find the additional, following information helpful in deciding my permanent waiver request. I learned that I was deficient 6 accounting and 3 business law credits at the upper level when I applied to sit for the CPA exam. I remedied this by taking ACG3113 Intermediate Accounting II in the spring of 2008, ACG4401 Accounting Information Systems in the spring of 2008, and BUL3130 Legal Environment of Business in the summer of 2009. These classes were required to sit for the exam, but were redundant to my previous course work and knowledge gained from my bachelor's and master's degrees and my experience in industry. I sat for and passed Auditing, the fourth section of the CPA exam April 9, 2011. I applied for licensure to the Board in July 2011.

Thank you for your time and consideration,



Clayton M. Rowe
247 Prince Phillip Drive
Saint Augustine, FL 32092
Phone: 904-923-1604
E-mail: clayrowe0404@yahoo.com
Fax: 904-353-4917

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF ACCOUNTANCY
1940 North Monroe Street
Tallahassee, Florida 32399

CERTIFICATION OF WORK EXPERIENCE

INSTRUCTION TO EMPLOYEE: Please sign this statement, forward to employer for completion and return to the Board of Accountancy.

I hereby authorize my employers (past and present) to release to the Florida Board of Accountancy any information, files and/or records as it may deem necessary in the processing of this certification of work experience.

Name of employee Clayton M. Rowe
(PLEASE PRINT OR TYPE)
Address of employee 247 Prince Phillip Dr. Saint Augustine FL 32092
STREET OR P.O. BOX # CITY STATE ZIP
7.7.11 DATE Clayton M. Rowe SIGNATURE OF EMPLOYEE

INSTRUCTIONS TO EMPLOYER: Please complete, have notarized and forward this Certification of Work Experience form to the Board of Accountancy, 1940 North Monroe Street, Tallahassee, Florida 32399.

- Name of employer GREGORY B LECHMAN
- Location of office in which employee was employed. Jacksonville, FL
- FULL-TIME EMPLOYMENT: From 11/27/2000 To 2/1/2005
Number weeks employed 216 Applicant still employed: YES NO
Average hours per week employed 40
Total hours employed 8640
- PART-TIME EMPLOYMENT (Give complete details below Attach additional statement if necessary.)
Employed from _____ To _____
Number weeks employed _____
Average number hours per week employed _____
Total hours employed _____
- Is there any additional information concerning the good moral character or technical fitness of the employee relative to his/her practice of public accounting that you feel the Board should be informed of? Yes No (If "Yes", please attach written explanation.) Good moral character means a "personal history of honesty, fairness, and respect for the rights of others and the laws of this state and nation."

I, the undersigned, state that the employee named on this certification:

has rendered such services as are customarily performed by a full-time regularly employed professional staff employee of a certified public accountant or firm thereof engaged in the full-time practice of public accounting for at least one year and was supervised (as defined below) by a certified public accountant who was employed on a full-time basis

has been employed for at least one year by a unit of federal, state or local government in a position which required the use of accounting skills and was supervised (as defined below) by a certified public accountant who was employed by the unit of federal, state or local government on a full-time basis

has been employed for at least one year in industry and that employment required the use of accounting skills as a substantial part of his/her duties and was supervised (as defined below) by a certified public accountant who was employed on a full-time basis

has been employed for at least one year by an educational institution in a full-time accounting teaching position and was supervised (as defined below) by a certified public accountant who was employed on a full-time basis

has been employed for at least five years in public accounting, industry, or by a unit of federal, state, or local government and that employment required the use of accounting skills as a substantial part of his/her duties, after licensure as a CPA or Canadian or Australian Chartered Accountant, under the supervision (as defined below) of a licensed CPA or Canadian or Australian CA

Supervision, as utilized in Section 473 308(4), F S , shall be deemed and construed to mean the applicant, during his employment, was subject to oversight, guidance and evaluation by a certified public accountant who has the right to control and direct the applicant as to the result to be accomplished by the work and also as to the means by which the result was to be accomplished

I state that these statements are true and correct and recognize that providing false information may result in disciplinary action against my license or criminal penalties pursuant to sections 455 2275 and 837 06, Florida Statutes

Employer's name GREGORY B. LECHMAN

Firm name (if applicable) _____

Status in firm (if applicable) _____

CPA certificate no AC 0029028 Date issued 4/16/1996 State in which certified FL

7/19/2011
DATE

[Signature]
SIGNATURE OF EMPLOYER, PARTNER OR STOCKHOLDER

Nancy K. Waeltz 7/19/2011

