

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/29/2018
File #	2018-07210

**IN RE: PETITION FOR VARIANCE BY  
HALSTON FERNANDEZ**

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**VW 2018-131**

**ORDER GRANTING PETITION**

Petitioner, Halston Fernandez, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on June 29, 2018. The Notice of the petition appeared in the Florida Administrative Register on July 6, 2018, in Volume 44 Number 131; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on August 10, 2018, in Ft. Lauderdale, 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 as a certified public accountant (CPA).
2. Rule 61H1-28.0052(1)(b), FAC, provides in part, candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed."
3. Petitioner passed the BEC portion of the CPA examination on June 7, 2016, and credit for that portion of the examination expired on December 7, 2017. Petitioner passed the AUD portion of the CPA examination on December 15, 2016, and credit for that portion of the examination expired on June 15, 2018. Petitioner passed the REG portion of the examination on September 18, 2017, and credit for that portion of the examination will expire on March 18, 2019. Petitioner passed the FAR portion of the

examination on June 25, 2018, and credit for that portion of the examination will expire on December 25, 2019.

4. During the 18-month window, due to Hurricane Irma, the Prometric Testing Center in Maitland, Florida was closed on Petitioner's scheduled examination day, September 8, 2017. Further, the restructured CPA examination (released in April, 2017) delayed the release of examination scores and further delayed Petitioner's moving forward with his studies. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of six (6) months and eighteen (18) days beyond the eighteen months provided in the rule to retain the passing score on the AUD portion of the examination until June 25, 2018, when he passed the fourth portion of the examination.

#### **GROUND FOR APPROVAL**

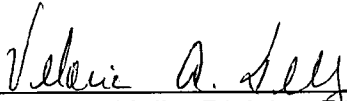
The Board determined the petition should be granted on the following grounds:

5. Petitioner established that the Board's full application of Rule 61H1-28.0052(1)(b), FAC, to his circumstances would violate principles of fairness and would impose a substantial hardship on him.

6. Petitioner established that, if he were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, FS.

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

**DONE AND ORDERED** this 27<sup>th</sup> day of August, 2018, by  
the Florida Board of Accountancy.

  
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Veloria A. Kelly, Division Director

**NOTICE TO APPLICANT**

You may seek review of this Order, pursuant to Sections 120.569 and 120.57, FS, by filing a petition with the Division Director of the Board, 240 Northwest 76<sup>th</sup> 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 Halston Fernandez, 1548 Spring Ridge Circle, Winter Garden, Florida 34787, and to Kenneth J. Plante, 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 29<sup>th</sup> day of August, 2018.

  
Brandon M. Nicks

<b>FILED</b>	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/29/2018
File #	

**RECEIVED**

**JUN 29 2018**

June 28, 2018

<b>RECEIVED</b>	
JUN 29 2018	
BY:	.....

**DBPR Agency Clerk**

Department of Business & Professional Regulation  
Division of Certified Public Accounting  
240 NW 76<sup>th</sup> Drive, Suite A  
Gainesville, FL 32607

**VW 2018-131**

**RE: PETITION FOR VARIANCE FROM RULE 61H1-28.0052(1)(b) – Rolling Eighteen-Month Period Rule**  
**Petitioner: Halston Fernandez**  
**Address: 1548 Spring Ridge Circle, Winter Garden, FL 34787**  
**Mobile: (407)924-8400**  
**Email: Halston.Fernandez@gmail.com**

**61H1-28.0052 Number of Sittings, and Granting of Credit, Release of Grades and Completion of Examination, Transition Rules.**

(1) With respect to the CPA Examination:

(b) Candidates must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the NASBA grade release date for the first test section(s) passed. In the event all four test sections of the CPA Examination are not passed within the rolling eighteen-month period, credit for any test section(s) passed outside the eighteen-month period will expire and that test section(s) must be retaken.

Dear Sir/Madam:

Pursuant to Rule 61H1-28-105.002(1)(b), I would like to petition for a declaratory statement from the Board of Accountancy regarding the rolling eighteen month window for the Business Environment & Concepts ("BEC") exam which expired December 7, 2017 (See Exhibit 1). My request is for a waiver of six months, which I believe I qualify for due to the circumstances noted below.

- 1) During the 18-month rolling window, Hurricane Irma caused the Prometric Testing Center in Maitland, Florida (Testing Center #0080) to close on my exam day which was originally scheduled on September 8, 2017. The testing window for this period closed on September 10, 2017, which prevented me from taking the Financial Accounting and Reporting ("FAR") exam during the third testing window. I was forced to reschedule the FAR exam in the next testing window preventing me from being able to re-take the exam once more before his first exam (BEC) in the rolling window would expire. Unfortunately, the exam was not passed on the first try and the petitioner did not have a chance to sit for the FAR exam again before losing the BEC exam due to the delay in testing caused by the hurricane. I am seeking a permanent variance

from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of 6 months beyond the eighteen months provided in the rule to retain the passing scores on the BEC and AUD portion of the examination, when I passed the fourth portion of the examination on June 6, 2018 score received on 6/27/18, see Exhibit 1).

- 2) I have been working in public accounting for 6 years and have concurrently sat for the CPA examination as an applicant in the State of Florida. I has passed all four portions of the exam, however, not within a rolling 18 month period. While sitting for the exam, additional course materials were added as well as two formatting changes to the exam as a whole. New exam formats and new accounting pronouncements were put into place each time that I sat for the FAR examination which may not have affected me if the hurricane did not prevent me from taking the exam twice before any changes came into effect. The release of updated accounting standards have changed the test and required additional study time and preparation. The new CPA exam released in April 2017 slowed down grading. This slow-down prevented the petitioner from moving forward with studies due to a delayed wait period for exam results. Furthermore, due to the timing of exams and rescheduling, "busy season" prevented the petitioner from being able to complete the exam before 6 months past the 18-month rolling window.


Due to the circumstances noted above, I request that the board grants me a waiver for the expiration of the rolling window impacting my licensure.

I would like to also note that the regional CPA firm that I work for requires that I stay up to date with CPE as if I were a licensed CPA. I believe that the CPE that I have taken part in has kept me up to date with any changes that may have been made to the BEC exam since June 2016.

The petitioner seeks a one-time variance from Rule 61H1-28.0052(1)(b).

Thank you for your consideration. Please feel free to contact me at (407) 924-8400 if you have any question concerning this submission.

Sincerely,

  
6/28/18

Halston Fernandez