

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/24/2018
File #	2018-02955

**IN RE: PETITION FOR VARIANCE BY
JULIAN JAVIER GONZALEZ**

VW 2018-029

ORDER GRANTING PETITION

Petitioner, Julian Javier Gonzalez, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code (FAC), on February 13, 2018. The Notice of the petition appeared in the Florida Administrative Register on February 23, 2018, in Volume 44 Number 38; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on March 23, 2018, in Jacksonville, 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 FAR portion of the CPA examination on May 4, 2016, and credit for that portion of the examination expired on November 4, 2017. Petitioner passed the BEC portion of the CPA examination on November 3, 2016, and credit for that portion of the examination will expire on May 3, 2018. Petitioner passed the AUD portion of the examination on February 6, 2017, and credit for that portion of the

examination will expire on August 6, 2018. Petitioner passed the REG portion of the examination on December 7, 2017, and credit for that portion of the examination will expire on June 18, 2019.

4. During the 18-month window, Petitioner states that due to Hurricane Irma, the testing center where he was scheduled to take the REG portion of the examination was closed on September 7, 2017. Petitioner states that he rescheduled testing for September 9, 2017, in Washington D.C., but his flight was canceled due to extreme weather conditions. He drove to Washington D.C. to complete the examination, but ended up failing (requiring him to retake the exam on December 7, 2017) by which time the FAR portion of the examination score had already expired. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow an extension of one (1) month and three (3) days beyond the eighteen months provided in the rule to retain the passing scores on the FAR portion of the examination, when he passed the fourth portion of the examination on December 7, 2017.

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 18th day of April, 2018,

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), Florida Statutes; your petition must contain the information required by Rule 28-106.201, Florida Administrative Code, 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), Florida Statutes; your petition must include the information required by Rule 28-106.301, Florida Administrative Code, 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, Florida Statutes, 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 Julian Javier Gonzalez, 14063 SW 53 Street, Miramar, Florida 33027, 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 24th day of April, 2018.

Brandon M. Nichols

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FILED	
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VW 2018-029

RECEIVED
FEB 13 2018

February 10, 2018.

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

RECEIVED

FEB 15 2018

DBPR Agency Clerk

Re: Petition for permanent variance from Rule 61H1-28.0052(1)(b) from Julian Javier Gonzalez ("Petitioner"). Address: 14063 SW 53 Street, Miramar FL 33027. Phone No. (786) 547-0711. Application for licensure No. 372057, Profession 0101.

Per your letter of February 6, 2018, enclosed, advising the undersigned regarding the possibility of submitting a permanent variance of the above-mentioned Rule before you, I do hereby do so and further state:

The relevant portions of the Rule are: "61H1-28.0052(1)(b) 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."

This Rule is implementing Section 473.306 of the 2016 Florida Statutes regarding Examination requirement to become a Florida certified public accountant.

The undersigned Petitioner request that the Board of Accountancy please waive Rule 61H1-28.0052(1)(b), FAC stated above due to the following circumstances:

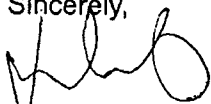
1. In September of 2017, the extremely powerful and catastrophic Hurricane Irma adversely affected Petitioner's performance in the last and most important examination towards his CPA certification, as you will note from the facts below.
2. As the record shows (See page 3 / 5 of Exhibit A), Petitioner was first scheduled to test for REG on September 7th 2017. However, on the night of September 6th, Petitioner was advised that due to the hurricane, the testing center was to be closed for the foreseeable future (See page 1 / 5 of Exhibit A).
3. Knowing that the FAR examination would expire in November, which is a date before the next results would come due in December, Petitioner proactively searched with very short notice for another testing center. However, all testing centers in Florida and nearby states were either closed or no seats were available. At the last minute, Petitioner was able to find a testing center in Washington D.C., which Petitioner scheduled for September 9, 2017 (See page 4 / 5 of Exhibit A).

4. Immediately, Petitioner booked a plane ticket to Baltimore, Maryland departing on September 7th, 2017, with the intent to drive to the DC testing center and also have time to rest before the examination. Unfortunately, despite Petitioner's best efforts to be at the testing center on time and well rested, Petitioner's flight was also cancelled because of the hurricane Irma ("Exhibit B").
5. In a form of desperation, Petitioner decided to drive over 1,057 miles to Washing DC in the morning of September 8, 2017. However, due to the evacuation order on much of the state, it took the Petitioner 23 hours with very few stops to rest. Petitioner finally arrived to D.C. at approximately 11 a.m. in the morning of the exam and with no sleep, Petitioner regrettably sat for the exam at around 4 p.m. that same day. As the results show, the exam resulted in the lowest score in all the exams Petitioner had taken, despite the fact that it was the exam that Petitioner had prepared the most as it was the final step to achieve the examination part of Petitioner's CPA certification.

To the Petitioner's knowledge, he has met all education and examination requirements and is of good moral character. Furthermore, application of the above Rule would violate principles of fairness because Petitioner did all within his reach to responsibly sit for the September exam, including changing test center upon the hurricane warning, booking plane tickets with enough anticipation, and driving under unsafe conditions to reach the test center on time. Unfortunately, Petitioner's body was stronger than his determination and the fatigue beat Petitioner at the September examination time. Note that under normal circumstances, Petitioner was able to successfully perform on the next available examination, where Petitioner's score was 80.

Considering the above unfortunate circumstances totally unforeseeable and outside of Petitioner's control, Petitioner hereby seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, and is willing to provide any additional information or documentation deemed necessary to achieve such variance.

Sincerely,



Julian Javier Gonzalez

Petitioner

14063 SW 53 Street,

Miramar FL 33027.

Phone No. (786) 547-0711.

Application for licensure No.372057, Profession 0101