

STATE OF FLORIDA
BOARD OF ACCOUNTANCY

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	1/17/2012
File #	2012-00279

IN RE: PETITION FOR VARIANCE BY
JENNIFER SMITH WEITZ

ORDER : **VW 2011-318**

Petitioner, Jennifer Smith Weitz, filed a petition for a permanent variance from the requirements of Rule 61H1-33.006(2)(a), Florida Administrative Code (FAC), on September 15, 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 on December 2, 2011, in Tallahassee, Florida. At the hearing on this matter, Petitioner was not 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 is a licensed certified public accountant whose license became delinquent on January 1, 2011, for failing to timely complete four continuing professional education (CPE) hours in Board-approved ethics.
2. Petitioner believed she had timely completed and submitted all required CPE along with the applicable fees to the Department of Business and Professional Regulation for the June 30, 2010 reporting period. Petitioner was unaware that the six CPE hours she completed for ethics were not Board-approved and, as a result, her license had become delinquent. Upon notification, Petitioner completed four hours of Board-approved ethics.
3. Rule 61H1-33.006(2), FAC, provides that an applicant for reactivation must

complete a specified number of CPE hours in addition to the regular renewal requirements.

4. Petitioner seeks a permanent variance from Rule 61H1-33.006(2), FAC, to the extent necessary for the four CPE hours in Board-approved ethics she completed to be treated as timely for the period ending June 30, 2010, such that she will not be subject to any penalty CPE hours for reactivation.

GROUND FOR APPROVAL

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

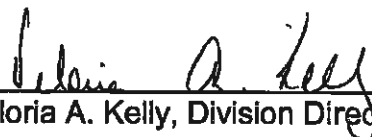
5. Petitioner established that the purpose of the underlying statutes, Sections 473.312 and 473.313, Florida Statutes, would be met were she to be granted a variance from the rule as she has now completed all required Board-approved ethics hours.

6. Petitioner further established that the Board's application of Rule 61H1-33.006(2), FAC, to her circumstances would violate principles of fairness and would 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 9th day of January, 2011,
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 Jennifer Smith Weitz, 301 Yamato Road, Suite 2195, Boca Raton, Florida 33431; 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 *BM*

Brandon M. Nichols

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	9/15/2011
File #	

Petition for Variance from Rule 61H1-33.006(2)

Petitioner information:

Jennifer Smith Weitz
301 Yamato Road, Suite 2195
Boca Raton, FL 33431

Phone: (561) 997-6797
Fax: (561) 997-6966

RECEIVED
SEP 15 2011
BOARD OF ACCOUNTANCY

Applicable portion of the Rule 61H1-33.006(2), FAC:

- (a) Florida certified public accountants who have been inactive or delinquent for one reporting period following their most current/active license, shall satisfy the requirements of their most recent biennium while active plus 40 additional CPE hours to include a total of 120 hours with at least 20 hours in accounting/auditing subjects, 4 hours of board approved ethics and no more than 20 hours in behavioral subjects.

The citation to the statute the rule is implementing:

Section 473 313, FS

VW 2011-318

Type of action requested:

The petitioner respectively requests that the Board of Accountancy grant a variance from 61H1-33006(2), FAC for her personal situation.

Specific facts that demonstrate a violation of principles of fairness that would justify a variance for the petitioner:

Petitioner timely submitted her continuing education credits for the June 30, 2010 reporting period and paid the applicable fees to the Department of Business and Professional Regulation. The continuing education was submitted and the check cleared with no issue until the Petitioner recently discovered, by her own research, that her license had been placed on inactive status with the Florida Department of Business and Professional Regulation as of December 31, 2010.

After speaking with the Board of Accountancy, it was explained to the Petitioner that the six (6) credits that she had submitted for Ethics had not been approved by the Board of Accountancy to satisfy the four (4) credits required for Ethics. Note, the course was given by an approved sponsor and the Petitioner was given a completion certificate indicating that six hours of Regulatory Ethics was earned. At no time was the Petitioner notified that the course she took was not accepted by the Board of Accountancy. Had she been notified, she would have taken immediate steps to correct this error.

Petitioner has been certified as a CPA in the State of Florida since 1992 and historically has completed CPE courses and paid license fees on time. The Petitioner did not intend to take a course that was not approved by the Board of Accountancy and was quite surprised to see her license is listed as inactive as she was not given the opportunity to correct before it went into inactive status.

The reason why the variance requested would serve the purposes of the underlying statute:

The reason why the variance requested would serve the purposes of the underlying statute is that the petitioner, in good faith, completed 80 hours of continuing education credits for the reestablishment period ending June 30, 2010 and submitted to the Board of Accountancy. Further, the Petitioner has never failed to meet Florida state continuing education requirements for being a CPA nor has been delinquent in payment of fees during her period of licensure. The Petitioner believes that the strict application of 473.313, FS would be unfair, as in no way was the Petitioner looking to avoid taking the state approved Ethics course.

Petitioner requests that this variance is permanent.

301 Yamato Road, Suite 2195
Boca Raton, FL 33431

September 23, 2011

Division of Certified Public Accounting
Veloria Kelly, Director
240 NW 76th Drive, Suite A
Gainesville, FL 32607-6655

RECEIVED
SEP 26 2011
BOARD OF ACCOUNTANCY

Re: License Number - AC 26052
Licensee Name: Jennifer Smith Weitz

Dear Ms. Kelly:

Please find enclosed a copy of your letter dated September 16, 2011 requesting that I complete a board approved ethics course before my petition goes before the Board of Accountancy at their meeting on December 2, 2011.

In response to your letter, I have completed "Personal and Professional Ethics for Florida CPAs" for four (4) CPE credits. My certificate for completion is also enclosed.

I respectfully request this certificate be included with my petition to the Board.

Please call me if you need further information at (561) 997-6797.

Sincerely,


Jennifer Smith Weitz

Ken Lawson, Secretary

Rick Scott, Governor

September 16, 2011

AC 28052
Jennifer Smith Weitz
301 Yamato Road, Suite 2195
Boca Raton, FL 33431

Dear Jennifer Weitz:

We are in receipt of your petition for a variance from Rule 61H1-33.006 (2), F.A.C. Our attorney has requested that we notify you that you will need to take the four (4) hours of board approved ethics (see enclosed list) and that your goal should be to have the approved course substituted for the non-approved course and have it count as having been timely completed. It is recommended that you complete the course prior to your petition going before the Board for review.

Your petition will go before the Board of Accountancy, at their meeting on December 2, 2011. Please submit proof of attendance for the approved course by October 31, 2011.

If you have any questions, please call the number listed above.