

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
JOAM ST. JEAN**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	10/25/2012
File #	2012-06912

NOTICE OF INTENT TO DENY PETITION

Petitioner, Joam St. Jean, filed a petition for a permanent variance from the requirements of Rule 61H1-28.0052(1)(b), Florida Administrative Code, on March 21, 2012.

The notice of the petition appeared in the Florida Administrative Weekly on April 6, 2012, in Volume 38 Number 14; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on June 8, 2012, in Tampa, Florida. At the hearing on this matter, Petitioner was neither present nor represented by counsel. The Board was represented by Mary Ellen Clark, Assistant Attorney General.

STATEMENT OF RELEVANT FACTS

VW 2012-095

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 REG portion of the CPA examination on September 23, 2010, and credit for that portion of the examination expired on March 22, 2012.
4. Petitioner seeks a permanent variance from Rule 61H1-28.0052(1)(b), FAC, to allow him a 24 month extension to retain the passing score on the REG portion of the examination, until he can pass the remaining three portions of the examination.

GROUND FOR DENIAL

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

5. Petitioner failed to establish 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 failed to establish that, if he were granted the variance, the purpose of the accountancy examination statute would be met as required by Section 473.306, Florida Statutes.

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 October, 2012,
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 Joam St. Jean, 2840 Pythagoras Circle, Ocoee, Florida 34761, 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 25th day of October, 2012.

Brandon M. Nichols

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FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/21/2012
File #	

PETITION FOR VARIANCE FROM RULE 61H1-28.0052

Petitioner Information:

Joam St Jean
2840 Pythagoras Cir
Ocoee, FL 34761
Phone : (407)556-5431
Fax (877)733-4303

Attorney Information:

Not application

RECEIVED
MAR 21 2012
BOARD OF ACCOUNTANCY

**Application portion of the rule:
61H1-28.0052(1) (b), FAC:**

VW 2012-095

"Candidate must pass all four test sections of the CPA Examination within a rolling eighteen-month period, which begins on the date that the first test section(s) passed is taken. 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."

**The citation of the statute the rule is implementing:
Section 473.306, FS-Examinations**

Type of action requested:

The petitioner requests that the Board of Accountancy please waive 61H1-28.0052(1) (b), FAC (stated above) for his personal situation.

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

The petitioner worked as Accountant and Tax preparer at two certified public accounting firms; and has been working as Sr. Accountant at a leasing company for more than 5 years, like his resume can show. His plan was to pass all four test sections of the CPA Examination within twelve months, but financial hardship happened and prevented him from paying for the remaining three test sections of the CPA Examination. He spoke to a NASBA representative that confirmed that the Regulation test section that he already passed will expire on March 22, 2012; and he even emailed a regulatory specialist about the case that emailed him back and suggested to send a formal request for variance from 61H1-28.0052(1)(b), FAC. If there was no financial hardship, he would have taken the remaining three exams before the expiration date of the test section he already passed at a score of 83. I would like to retain the score of 83 that I passed the Regulation section with; and I will need at least 24 months to pass the remaining three test sections of the CPA Examination.

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

To the petitioner's knowledge, he has met all the education requirements, and is of good moral character.

Petitioner Statement:

The petitioner seeks a temporary or permanent variance from Rule 61H1-28.0052(1) (b), FAC.


Joam St Jean, MAFM