

<b>FILED</b>	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	3/15/2011
File #	2011-01879

**STATE OF FLORIDA  
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY  
H. GARLAND GRANGER, III**

**VW 2010-608**

**ORDER**

Petitioner, H. Garland Granger, III, on behalf of Professional Accounting Seminars, Inc., filed an amended petition for a permanent variance from the requirements of Rule 61H1-33.0033(1), Florida Administrative Code (FAC), on December 14, 2010. The notice of the petition appeared in the Florida Administrative Weekly on December 30, 2010, in Volume 36 Number 52; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on January 28, 2011, 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**

The facts relevant to the petition are as follows:

1. Petitioner is the president of Professional Accounting Seminars, Inc., an ethics course continuing education provider seeking Board approval. Petitioner practiced public accounting in North Carolina for six years with a large firm and three years as a sole practitioner, before becoming a professor of accounting at Guilford College in Greensboro, North Carolina. Petitioner has not practiced public accounting for five of the last ten years.
2. Rule 61H1-33.0033, FAC, provides in part, "[t]o maintain an approved status as an ethics course continuing education provider, the provider must: (1) Retain

documentation that the ethics course instructor is a certified public accountant who has practiced in a public accounting firm for five of the last ten years.”

3. Petitioner seeks a permanent waiver of Rule 61H1-33.0033(1), FAC, regarding the requirement that the continuing education provider course instructor be a certified public accountant who has practiced in a public accounting firm for five of the last ten years.

#### **GROUNDS FOR DENIAL**

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

4. Petitioner failed to establish that the purpose of the accountancy continuing professional education statute would be met as required by Section 473.312, Florida Statutes.

5. Petitioner further failed to establish that the Board=s full application of Rule 61H1-33.0033(1), 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 **DENIED**.

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

**DONE AND ORDERED** this 7<sup>th</sup> day of March, 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 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), 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 H. Garland Granger, III, Professional Accounting Seminars, Inc., 2423 Retriever Lane, Greensboro, NC 27455; and to F. Scott Boyd, Executive Director, Joint Administrative Procedures Committee, Room 120 Holland Building, Tallahassee, Florida 32399-1300, and Mary Ellen Clark, Assistant Attorney General, PL-01 The Capitol, Tallahassee, Florida 32399-1050 this 15<sup>th</sup> day of March, 2011.

*Brandon M. Nicks*

<b>FILED</b>	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	12/14/2010
File #	

*Amended*

**Petition for Waiver of the Florida Administrative Code  
Section 61H1-33.0033**

Professional Accounting Seminars, Inc. is requesting a waiver of the above rule in accordance with *Rule 28-104.002 - Petition for Variance or Waiver*.

(2)(b) The name, address, telephone number, and any facsimile number of the petitioner.

H. Garland Granger, III, President  
Professional Accounting Seminars, Inc.  
2423 Retriever Lane  
Greensboro, NC 27455  
No fax number  
ggranger2@triad.rr.com

**VW 2010-608**

(2)(c) The name, address, telephone number, and any facsimile number of the attorney or qualified representative of the petitioner (if any).

There is no other representative for the petitioner.

(2)(d) The applicable rule or portion of the rule.

Florida Administrative Code Section 61H1-33.0033 (1) states,

"To maintain an approved status as an ethics course continuing education provider, the provider must:  
Retain documentation that the course instructor is a certified public accountant licensed by a state or territory of the United States who has practiced in a public accounting firm for five of the last ten years, whose background, training, education or experience makes it appropriate for the person to teach the course."

(2)(e) The citation to the statute the rule is implementing.

The citation of the statute the rule is implementing is FAC 473.312(1)(c), FS.

"Not less than 5% of the total hours required by the board shall be in ethics applicable to the practice of public accounting. This requirement shall be administered by providers approved by the board and shall include a review of the provision of chapter 455 and this chapter and the related administrative rules.

(2)(f) The type of action requested.

As president of Professional Accounting Seminars, Inc., I am requesting a waiver of the rule cited above.

**(2)(g) The specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver or variance for the petitioner.**

My understanding of states such as Florida requiring ethics as part of the required hours of continuing education is to improve the ethical conduct of it's membership and maintain the confidence of the public in the public accounting profession. Having qualified instructor for any ethics course is vital to these objectives. In the case of my company, both Garland Granger and David Holt teach ethics. Their qualifications are listed in the next section. Both of us have worked in public accounting. However, neither of us has worked five of the last ten years in public accounting. Both of us had taught ethics for many years and feel that our experience working with CPA firms teaching ethics and local chapters should be sufficient to offset the current experience requirements. Both of us do some form of consulting with CPA firms and both of us are approved in other states to teach ethics. We have a vast amount of experience indirectly from teaching for these firms and organizations. We have received a large number of comments in our evaluations and orally that our seminars were more practical than any ethics seminar they had taken. Both David and I teach seminars for a living and take this profession very seriously. I believe that this five year requirement creates a hardship for us since we have not worked in public accounting during the last ten years. However, our experience teaching for firms keeps both of us up-to-date on current ethical issues facing firms and provides us with more informative information than we would obtain if we were working for a CPA firm currently. I believe that this rule is unfair to both of us and penalizes us because we chose to leave public accounting and continue to our profession by teaching effective seminars such as ethics.

**(2)(h) The reason why the variance or the waiver requested would serve the purposes of the underlying statute.**

As I just stated, I believe that waiving this requirement will serve the purpose of the statute if the purpose is to offer high quality ethics seminars that assist CPAs in improving their ethic conduct. We do that through teaching the requirements of the statutes and working practical problems as a means of helping CPAs apply the rules and statutes. I believe that both David and I are fully qualified to teach ethics in Florida. I have provided a bio for both of us as evidence of our qualifications to teach ethics even though we have not worked in public accounting for five of the past ten years.

**Garland Granger, MA, CPA**

I worked in public accounting in North Carolina with both a national firm and a local firm for six years. I also worked as a sole practitioner for three years. I started teaching accounting full time at Guilford College in Greensboro, NC. I found that I was not able to maintain my practice and disposed of my company. I have taught accounting courses at this college in the evening program for many years. During this time I have taught many different types of classes. However, I have also taught auditing and ethics for CPAs for many years. I have developed an entire course for our majors on both ethics for CPAs as well as ethical decision making that I have taught for the past ten years. I

also have taught the auditing section of the CPA exam for Lambers CPA Review for over twenty years. Fifteen years ago, I began teaching seminars for CPAs with Bell Learning Systems headquartered in Tallahassee, Florida. When Bell Learning was sold, I started my own business teaching continuing education seminars and am a CPE provider sponsored by NASBA. I am an approved ethics provider in North Carolina and have developed a very successful and applicable ethics course. I have taught numerous ethics classes for CPA firms and as well as open courses for all CPAs in North Carolina. I am often asked by CPA firms with ethical questions and asked how they should resolve them. My experiences in public accounting, teaching ethics at the college level, and teaching over seven hundred seminars for CPAs has enhanced my skills in teaching most topics. But these areas have greatly enhanced my ability to teach ethics. I feel more than qualified to teach these courses even though I have not worked formally in public accounting in the past ten years. If the essence of the requirement is to help CPAs do a better job of compliance, I believe I do an excellent job with this course.

**David Holt, MBA, CPA, CFE**

David also worked with Bell Learning Systems and left shortly after the firm was sold and we started working together. David has twenty-five years of public accounting experience and has taught seminars since 1988 as well. He has been chosen as an Outstanding Seminar Leader in the state of Texas by the AICPA. David also has taught hundreds of seminars since 1988. David also consults with firms regarding various technical issues as well as training courses for CPA firms. David lives in Texas and is an approved ethics provider in that state. He has taught ethics for most of the local chapters in Texas multiple times. Since Texas has a CPE reporting date of one's birthday, the local chapters offer ethics every month or two throughout the year. David has taught many of those courses for local chapters. David has not worked in public accounting for five of the past ten years. However, his past experience, his consulting work, and his technical expertise in researching accounting and ethical issues more than qualifies him to teach ethics in Florida. David receives outstanding evaluations from participants who attend our seminars and make positive comments regarding the relevance of his materials.

We both worked for Bell Learning Systems and were the two top producers and had the highest evaluations of all the instructors. In our case, I believe that the rule requiring five years of public accounting experience out of the last ten years is unfair to both of us due to the vastness of our experiences and a proven track record as instructors. Teaching seminars is our main source of income and we take that job very seriously. Therefore, I am requesting a waiver for my company and the two instructors.

(2)(i) A statement whether the variance or waiver is permanent or temporary. If the variance or waiver is temporary, the petition shall include the dates indicating the duration of the requested variance or waiver.

I am requesting a permanent waiver for David and myself since we are the only two instructors for Professional Accounting Seminars, Inc. I have no intentions of adding any new instructors that would have to ask for a waiver.



H. Garland Granger, III  
Professional Accounting Seminars, Inc.  
2423 Retriever Lane  
Greensboro, NC 27455  
336.545.9769