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FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	3/2/2010
File #	

PETITION FOR WAIVER OF RULE 61H1-27.001(5)(a) AND
RULE 61H1-27.002(3)(b).

Petitioner information:

Pedro F. Ruiz
14830 SW 151 Terraces
Miami, Florida, 33196
Home phone: 305-235-6185
Cellular phone: 305-457-7311

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MAR 02 2010
BOARD OF ACCOUNTANCY

Attorney information:

Not Applicable

Applicable portion of the rules:

VW 2010-145

61H1-27.001(5)(a), FAC:

"A graduate of a four-year degree granting institution not accredited at the time the applicant's degree was received....the applicant satisfactorily complete at least 15 semester or 22 quarter hours, or the equivalent, in post-baccalaureate education at the accredited institution ..."

61H1-27.002(3)(b), FAC:

"39 semester or 58 quarter hours in general business education which shall include not less than the equivalent of six semester or 8 quarter hours in business law courses which shall include coverage of the uniform commercial code, contracts and torts..."

The citation to the statute the rule is implementing:

Section 478.306, FS-Examinations

Type of action requested:

The petitioner requests that the Board of Accountancy please waive 61H1-27.001(5)(a), FAC and 61H1-27.002(3)(b), FAC (stated above) for his particular situation.

Specific facts that demonstrate a substantial hardship or a violation of principles of fairness that would justify a waiver for the petitioner.

The petitioner has been working for more than twenty year as a license person in his country, Cuba. Only and small part of his academic achievement can be shown because of the regime in this country. The petitioner contacted accredited institution to pass the deficient class but this is not possible and need start almost all over again. Both situation resulted in a substantial hardship. The situation suffered for the petitioner is a violation of principles of fairness.

The reason why the waiver would serve the purposes of the underlying statute.

The petitioner can reach his goal and allowed sitting for CPA, once he past the examinations became and a more useful citizen to this country.

Petitioner Statement:

The petitioner seeks a permanent waiver of Rule 61H1-27.001(5)(a) and Rule 61H1-27002(3)(b).

FILED	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	10/21/2010
File #	2010-09992

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE OR WAIVER BY
PEDRO F. RUIZ**

VW 2010-145

ORDER

Petitioner, Pedro F. Ruiz, filed a petition for a permanent waiver of the requirements of Rules 61H1-27.001(5)(a) and 61H1-27.002(3)(a), Florida Administrative Code (FAC), on March 2, 2010. The notice of the petition appeared in the Florida Administrative Weekly on April 2, 2010, in Volume 36 Number 13; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on May 14, 2010, in Tampa, Florida. At the hearing on this matter, Petitioner was present and not 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 an applicant for the CPA licensure examination. Petitioner is a graduate of an unaccredited undergraduate institution. Petitioner's application did not meet the educational requirements based upon a deficiency of fifteen semester hours of graduate level courses, to include three semester hours of taxation, six semester hours of accounting and three semester hours of business law.
2. Petitioner has been employed in Cuba for more than twenty (20) years as a licensed accountant.
3. Rule 61H1-27.002(5)(a), FAC, provides that "a graduate of a four-year degree granting institution not accredited at the time the applicant's degree was received or at

the time of filing application will be deemed to be a graduate of a four-year accredited college and the applicant satisfactorily completes at least 15 semester or 22 quarter hours, or the equivalent in post-baccalaureate education at the accredited institution of which at least 9 semester or 13 quarter hours, including at least 3 semester or 4 quarter hours in taxation.”

4. Rule 61H1-27.002 (3)(b), FAC, provides that in order to be eligible to take the licensure examination, an applicant shall have completed “24 semester or 36 quarter hours in general business education which shall include not less than the equivalent of 6 semester or 8 quarter hours in business law courses which shall include the coverage of the Uniform Commercial Code, contracts and torts.”

5. Petitioner seeks a permanent waiver of Rules 61H1-27.001(5)(a) and 61H1-27.002(3)(a), FAC, in order that the Board may find he meets the educational requirements to sit for the CPA examination.

Grounds for Partial Approval and Denial

The Board determined that the petition for waiver should be partially approved and partially denied and voted to grant the waiver of Rule 61H1-27.001(5)(a), FAC, and deny the waiver of Rule 61H1-27.002(3)(b), FAC, on the following grounds:

6. Petitioner has established that the purpose of the underlying statute, Section 473.306(2), Florida Statutes (FS), would be met were he to be granted a waiver of Rule 61H1-27.001(5)(a), FAC. Petitioner has failed to establish that the purpose of the underlying statute, Section 473.306(3), FS, would be met were he to be granted a waiver of Rule 61H1-27.002(3)(b), FAC.

7. Petitioner has established further that the Board's application of Rule 61H1-

27.001(5)(a), FAC, to his circumstances would violate principles of fairness and would impose a substantial hardship on him. Petitioner has failed to establish that the Board's full application of Rule 61H1-27.002(3)(b), FAC, to his circumstances would violate principles of fairness and would impose a substantial hardship on him.

It is therefore **ORDERED** that the petition with regard to Rule 61H1-27.001(5)(a), FAC, be **GRANTED** and that the petition with regard to Rule 61H1-27.002(3)(b), FAC, be **DENIED**. Respondent shall be required to complete 6 semester or 8 quarter hours in business law courses which shall include the coverage of the Uniform Commercial Code, contracts and torts, to be eligible to sit for the CPA examination.

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

DONE AND ORDERED this 16th day of September, 2010,
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 Pedro F. Ruiz, 14830 SW 151 Terraces, Miami, Florida 33196; 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 21st day of October, 2010.

Brandon M. Nichols