

STATE OF FLORIDA
BOARD OF ACCOUNTANCY

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/25/2011
File #	2011-05744

IN RE: PETITION FOR VARIANCE BY
STANLEY U. HUNT

VW 2011-131

ORDER

Petitioner, Stanley U. Hunt, filed a petition for a permanent variance from Rule 61H1-27.0041(2), Florida Administrative Code (FAC), on April 14, 2011. The notice of the petition appeared in the Florida Administrative Weekly on May 11, 2011, in Volume 37 Number 20; no comments by interested persons were received. The petition was heard at a duly-noticed meeting of the Board of Accountancy held on June 17, 2011, in Tampa, Florida. At the hearing on this matter, Petitioner was present and 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 filed an application for licensure in Florida in February, 2011. Petitioner has worked in public accounting for the last sixteen years, including two years under the supervision of a licensed CPA. Petitioner completed all education requirements in August, 2009, and passed the fourth section of the CPA examination on December 15, 2010.
2. Section 473.308(4), Florida Statutes (FS), provides that an applicant for licensure must show one year of eligible work experience (applicants who passed the examination on or before June 30, 2010, were exempt from this requirement). Rule 61H1-27.0041, FAC, specifies the manner in which the one year of work experience must be documented.

3. Rule 61H1-27.0041(2), FAC, provides in part that "one year of work experience shall be held and understood to mean the rendition of services such as are customarily performed by full-time, regularly employed staff employees of a certified public accountant during the normal workweek as required by the employing certified public accountant, **commencing after** the completion of the educational requirements set forth in subsection 61H1-27.002(3), F.A.C." (Emphasis added.)

4. Petitioner seeks a permanent variance from Rule 61H1-27.0041(2), FAC, to the extent necessary for the Board to find that he has met the one year work experience requirement for licensure.

Grounds for Approval

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

5. Petitioner established that the purpose of the underlying statute, Section 473.308(4)(a), FS, would be met were he to be granted a variance from the rule based upon the following:

A. Petitioner has obtained two years of experience under the supervision of a licensed CPA;

B. Petitioner passed the 4th portion of the CPA examination approximately five months after the June 30, 2010 deadline.

6. Petitioner further established that the Board's application of Rule 61H1-27.0041(2), 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 **GRANTED**.

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

DONE AND ORDERED this 10th day of August, 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), FS; your petition must contain the information required by Rule 28-106.201, FAC, 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), FS; your petition must include the information required by Rule 28-106.301, FAC, 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, FS, 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 Stanley Hunt, 1547 Peters Creek Road, Green Cove Springs, Florida 32043; 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 August, 2011.

Brandon M. Nichols

7009 2620 0003 7447 2182	U.S. Postal Service CERTIFIED MAIL RECEIPT <i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
	For delivery information visit our website at www.usps.com .	
	OFFICIAL USE	
	Postage \$	Postmark Here
	Certified Fee	
	Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)		
Total Postage & Fees \$		
Sent To	<u>Stanley U. Hunt</u>	
Street, Apt No., or PO Box No.		
City, State, ZIP+4		
PS Form 3800, August 2006		See Reverse for Instructions

PETITION FOR VARIANCE FROM RULE 61H1-27.00

VW 2011-131

RECEIVED

APR 14 2011

BOARD OF ACCOUNTANCY

Petitioner Information:

Stanley U. Hunt
1547 Peters Creek Road
Green Cove Springs, FL 32043

Attorney Information:

Not Applicable

Applicable Portion of the Rule:

61H1-27.0041(2)

"One year of work experience shall be held and understood to mean the rendition of services such as are customarily performed by full-time, regularly employed staff employees of a certified public accountant during the normal workweek as required by the employing certified public accountant, commencing after the completion of the educational requirements set forth in subsection 61H1-27.002(3), F.A.C. The experience must either average at least twenty (20) hours a week over no more than one hundred and four (104) weeks or average no more than forty (40) hours a week over no more than fifty-two (52) weeks. Reasonable vacation time and sick leave or other required absences may be permitted. The supervisor, in her or his report to the Department, shall certify that the applicant rendered such services as are customarily performed by full-time, regularly employed staff employees for a minimum of 2,000 hours gained over a period of not less than fifty-two (52) or more than one hundred and four (104) weeks. The sequence of the experience is considered immaterial, that is, whether the experience was secured before or after taking the examination, or partly before the examination and partly after the examination, provided the two periods combined equal at least one year."

The Citation to the Statute the Rule is implementing:

Section 473.308(4)(A)

Type of Action Requested

The petitioner respectfully requests that the Florida Board of Accountancy (FBA) grant a variance to the above underlined portion of 61H1-27.0041(2) following an objective evaluation of his personal situation.

Specific Facts that Demonstrate a Violation of Principles in Fairness That Would Justify a Variance for the Petitioner:

The petitioner has approximately two years' experience working under a currently licensed CPA and over 16 years' of experience in the combined areas of finance, accounting, audit, and tax. The petitioner now realizes that his experience under the direction of a currently licensed CPA does not meet specific sequential requirements as described in line four, paragraph one underlined above. The petitioner believes that the purpose of the work experience rule is to protect the public. Specifically, the work experience rule ensures that a licensed CPA has realistic experience to accompany academic knowledge, and has also spent a sufficient amount of time working under the direction of a licensed

CPA. The petitioner has satisfied both of these requirements and believes that the FBA will be acting in good faith in granting this variance. Most importantly, the FBA will have satisfied the purpose of rule 61H1-27.0041(2) in ensuring that a Florida CPA license is not issued unless the candidate has sufficient experience. The petitioner believes that his level of experience - both under the direction of a currently licensed CPA as well as a spectrum of directly related work activities - will exceed that of most other CPA applicants. In support of this observation, please consider a summary of the petitioner's accounting / finance / audit / tax experience as follows:

1. Approximately two years' experience working under a currently licensed CPA (previously indicated in original work experience documentation)
2. Approximately four years combined experience as a corporate controller
3. Approximately two years' experience as the CFO of a small, privately held company
4. Key role in several audit / review engagements as the internal liaison, including internal audits, business profit sharing audits, external balance sheet reviews, and full SEC qualified audits
5. Approximately five years' experience as owner and operator of a private tax & accounting firm. During these five years, the petitioner has a client retention rate of 100% and no complaints. The firm provides services for individuals, partnerships, s-corporations, and not for profit entities.

The petitioner respectfully requests that the FBA consider the petitioner's total accounting / finance / audit / tax experience in making a decision regarding this Petition for Variance.

If the petitioner is not granted this variance, it would create a substantial hardship. During the past five years, the petitioner has been taking courses, studying for the CPA exams, and building his accounting practice. To satisfy the sequential portion of the work experience rule, the petitioner would either have to (A) close his practice and seek full time work, or (B) attempt to work full time for another CPA and work during nights and weekends to satisfy the demands of a full time accounting practice. The petitioner has two teenage boys and an eight year old daughter, and believes that maintaining a full time accounting practice plus working full time would severely compromise his family obligations and responsibilities and quite conceivably result in the loss of many clients due to time constraints. Consequently, the only reasonable option would be to close the practice and seek full time work with another CPA. Quite conceivably, this would cause the loss of a practice that has taken five years to build, and since the petitioner lives in a very small town, it would be difficult to build the practice again. The petitioner has worked very diligently to build this practice and has plans for one or more of his children to join the practice at some point. Additionally, initial inquiries to companies and other CPA firms around Jacksonville indicate that economic conditions are tenuous and full time work under the guidance of another CPA would be very difficult to secure.

Finally, when the petitioner initiated efforts to obtain a CPA license (February, 2007), he relied upon the information provided on the web page of the Florida Department of Business and Professional Regulation: (<http://www.myfloridalicense.com/dbpr/cpa/licensure.html>). At that time, this web page did not include any language indicating that the work experience must be obtained after satisfying the educational requirements. Conversely, it included specific language that stated the sequence of when the experience was obtained was immaterial. The work experience rule, as explained on the above web page, contained the following language as of February, 2007:

First Part of Explanation:

"ONE YEAR WORK EXPERIENCE: *Must be supervised under a licensed CPA (This experience can be obtained prior to the application, while sitting for the exam or after all four parts of the exam has been passed.)"*

Detailed Explanation Below:

*"*Work experience shall include any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which must be verified by a certified public accountant who is licensed by a state or territory of the United States and who has supervised the applicant. This experience is acceptable if it was gained through employment in government, industry, academia, or public practice and constituted a substantial part of the applicant's duties.*

The experience must either average at least twenty (20) hours a week over no more than one hundred and four (104) weeks or average no more than forty (40) hours a week over no more than fifty-two (52) weeks. Reasonable vacation time and sick leave or other required absences may be permitted. The supervisor, in her or his report to the Department, shall certify that the applicant rendered such services as are customarily performed by full-time, regularly employed staff employees for a minimum of 2,000 hours gained over a period of not less than fifty-two (52) or more than one hundred and four (104) weeks. The sequence of the experience is considered immaterial, that is, whether the experience was secured before or after taking the examination, or partly before the examination and partly after the examination, provided the two periods combined equal at least one year."

At the time (2007) the petitioner initiated steps to obtain his CPA license, he understandably relied upon the information provided on the above indicated web page for planning purposes.

This web page has subsequently been modified to include language indicating that the work experience must be obtained after the requirements to sit for the exam have been met.

Considering the substantive information provided in this Petition for Variance, the petitioner is hopeful that the members of the FBA will issue a favorable decision. It seems that a favorable decision would not compromise the spirit of the rules to maintain the highest standards in awarding a CPA license.

Your consideration in this matter is genuinely appreciated.

Cordially,



Stanley U. Hunt