

STATE OF FLORIDA
BOARD OF ACCOUNTANCY

IN RE: PETITION FOR WAIVER BY
FLORIDA INSTITUTE OF CPAS

FILED	
<small>Department of Business and Professional Regulation</small>	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	12/17/2012
File #	2012-07942

ORDER

VW 2012-241

Petitioner, Florida Institute of CPAs, filed a petition for a waiver of the requirements of Rule 61H1-33.0033(1), Florida Administrative Code (FAC), on August 1, 2012. The notice of the petition appeared in the Florida Administrative Register on November 16, 2012, in Volume 38, Number 73; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on November 16, 2012, in Tallahassee, Florida. At the hearing on this matter, Paul N. Brown was 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 an ethics course continuing education provider seeking to maintain its Board approved status.
2. Paul N. Brown has been employed with Petitioner for the past 19 years as the Peer Review Technical Manager. Mr. Brown has been licensed as a CPA in Florida since March 3, 1988, and prior to his employment with Petitioner, worked for a private CPA firm for eight years.
3. Rule 61H1-33.0033, FAC, provides in part, "to 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.”

4. Petitioner seeks a waiver of Rule 61H1-33.0033(1), FAC, and the requirement that the continuing education provider course instructor be a certified public accounting who has practiced in a public accounting firm for five of the last ten years, to allow Mr. Brown to act as the instructor for Petitioner’s ethics continuing education course.

GROUNDS FOR APPROVAL

The Board determined that the petition for waiver should be granted for five years on the following grounds:

5. Petitioner established that the purpose of the accountancy continuing professional education statute would be met as required by Section 473.312, Florida Statutes, in that Mr. Brown provides technical review of Petitioner’s continuing professional education ethics course manual and fields questions regarding ethical situations involving Board rules, the Florida Statutes, and the American Institute of Certified Public Accountancy’s Code of Professional Conduct.

6. Petitioner further established that the Board’s full application of Rule 61H1-33.0033(1), FAC, to Petitioner’s circumstances would violate principles of fairness and would impose a substantial hardship.

It is therefore **ORDERED** that the petition be **GRANTED** for a period of five years from the effective date of this order.

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 December, 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 Florida Institute of CPAs, P.O. Box 5437, Tallahassee, Florida 32314; 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 December, 2012.

Brandon M. Nichols

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Street, Apt. No. or PO Box No. P.O. Box 5437	
City, State, ZIP+4 Tallahassee FL 32314	

PS Form 38007 August 2006 See Reverse for Instructions

*"Amended"***PETITION FOR WAIVER OF RULE 61H1-33.0033(1)**

FILED	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	8/1/2012
File #	

Petitioner Information:
 Florida Institute of CPAs
 P.O. Box 5437
 Tallahassee, FL 32314
 (850) 224-2727 Phone

Attorney Information:
 Not Applicable

VW 2012-241

Applicable Portion of the Rule:
 61H1-33.0033(1), FAC:

To maintain an approved status as an ethics course continuing education provider, the provider must:

- (1) Retain documentation that the course instructor is a certified public accountant 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.

Citation to the Statute the Rule is Implementing:
 Section 473.312 (1)(c), FS – Continuing Education

Type of Action Requested:

The petitioner requests that the Board please allow waiver of Rules 61H1-33.0033(1) for Paul N. Brown, CPA.

Reason Why the Variance Requested Would Serve the Purposes of the Underlying Statute:

Paul N. Brown practiced in the public accounting firm of Williams, Cox, Weidner and Cox of Tallahassee, FL for eight years prior to joining the FICPA staff as the Peer Review Technical Manager and subsequently the Director of Technical Services overseeing the entire Peer Review Department. Mr. Brown has been in these positions at the FICPA for nineteen years. As part of his duties at the FICPA Mr. Brown guides and assists more than 100 reviewers and 1400+ firms in the peer review program and performs the technical review of more than 400 reviews each year. As part of the technical review process Mr. Brown has to be familiar with a wide variety of accounting and auditing issues and the guidance he offers is often similar to a person practicing public accounting in a firm in the A & A business.

In addition to the above, Mr. Brown fields many questions from members and the public regarding ethic situations involving both the Board rules, Florida Statutes and the AICPA Code of Professional Conduct. Mr. Brown also performs the technical review of the FICPA's CPE Manual "Ethics: Protecting the Integrity of Florida CPAs".

Time Frame:

The waiver request is to be permanent.

Petitioner's Statement:

The petitioner requests waiver of Rules 61H1-33.0033(1) for Paul N. Brown.

Dated June 26, 2012