

STATE OF FLORIDA
BOARD OF ACCOUNTANCY

IN RE: PETITION FOR VARIANCE BY
STEVEN J. RODRIGUEZ, JR.

VW 2016-014

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	4/7/2016
File #	2016-02702

NOTICE OF INTENT TO DENY PETITION

Petitioner, Steven J. Rodriguez, Jr., filed a petition for a permanent variance from Rule 61H1-27.002(2)(a), Florida Administrative Code (FAC), on January 25, 2016. The notice of the petition appeared in the Florida Administrative Register on February 29, 2016, in Volume 42 Number 40; no comments by interested persons were received. The petition was heard at a duly-noticed public telephonic meeting of the Board of Accountancy held on March 11, 2016. At the hearing on this matter, Petitioner was present. The Board was represented by Mary Ellen Clark, Senior Assistant Attorney General.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner is an applicant for initial licensure as a certified public accountant (CPA) pursuant to Section 473.308(7)(a)1, Florida Statutes (FS).
2. Section 473.308(7)(a)1, FS, provides, in part, that the Board shall certify as qualified for a license by endorsement an applicant who "is not licensed and has not been licensed in another state or territory and who has met the requirements of this section for education, work experience, and good moral character and has passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306."
3. Section 473.308(3), FS, provides in part that "an applicant for licensure must

have at least 150 semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university, with a concentration in accounting and business in the total educational program to the extent specified by the board."

4. Rule 61H1-27.002(2)(a), FAC, provides in part that "the applicant's total education program shall include a concentration in accounting and business as follows:

(a) 36 semester or 54 quarter hours in accounting education at the upper division level which shall include coverage of auditing, cost and managerial accounting, financial accounting, accounting information systems, and taxation."

5. Petitioner's application was received on November 2, 2015, and an initial review revealed that, while he has completed more than 150 semester hours of college education, he was deficient 21.5 quarter hours of upper division accounting of the 54 quarter hours required by Rule 61H1-27.002(2)(a), FAC. Upon receipt of additional documentation, it was determined that Petitioner is deficient 12.5 quarter hours of upper division accounting.

6. Petitioner is a graduate of UCLA, with a major in Business Economics and Accounting, and was approved to sit for the CPA examination as a California candidate on September 21, 2010. He passed all sections of the examination in a rolling 18 month period, having passed the final examination on October 20, 2015. At the time he filed his petition, Petitioner was not and had not been licensed as a CPA in any state.

7. Petitioner states he has ten years of accounting and tax industry experience.

8. Petitioner seeks a permanent variance from Rule 61H1-27.002(2), FAC, to the extent necessary for the Board to find that he has met the educational requirements for licensure.

GROUND FOR DENIAL

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

9. Petitioner failed to establish that the purpose of the underlying statutes, Sections 473.306 and 473.308(3), FS, would be met were he to be granted a waiver of Rule 61H1-27.002(2)(a), F.A.C.

10. Petitioner further failed to established that the Board's application of 61H1-27.002(2)(a), F.A.C., to his circumstances would violate principles of fairness and 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 5th day of April, 2016, 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 Steven J. Rodriguez, Jr. 325 NE 95th Street, Miami Shores, Florida 33138; 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, Senior Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050 this 7th day of April, 2016.


Brandon M. Nichols

ELECTION OF RIGHTS FORM
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATION
BOARD OF ACCOUNTANCY

Applicant Name: Steven J. Rodriguez
Application Number: 320637
Date of Review: March 11, 2016

ELECTION OF OPTION TO SUPPLEMENT THE APPLICATION

___ I would like to supplement my application. I understand that any additional information must be submitted to the Board of Accountancy on or before the twenty-first (21) day from the date on which I received my Notice of Intent to Deny. I understand also that the Board will only reconsider its action if the additional material adequately addresses the deficiencies in my application. I understand further that my right to have a hearing will be lost if I do not now also elect to have a hearing.

ELECTION OF RIGHT TO HEARING

___ I want to have a hearing. If I have also elected to supplement my application, I understand that the hearing will not be scheduled unless and until the Board declines to reconsider its denial of my application. **IF YOU HAVE ELECTED TO HAVE A HEARING, FLORIDA LAW REQUIRES THAT YOU ALSO DECIDE THE TYPE OF HEARING THAT YOU WANT TO HAVE. THERE ARE TWO TYPES OF HEARINGS UNDER THE LAW. YOU MUST CHOOSE ONE OR THE OTHER. IF YOU FAIL TO CHOOSE ONE AT THE PRESENT TIME, YOU WILL BE ACCORDED A HEARING UNDER OPTION #2.**

Option #1 ___ I dispute the materials facts and want an evidentiary hearing pursuant to Section 120.57(1), Florida Statutes. This is a hearing before an independent Administrative Law Judge assigned by the Division of Administrative Hearings. To avail yourself of this option, the law requires that you submit a separate petition that complies with Section 120.57(1), Florida Statutes, and Rule 28-106.201 Florida Administrative Code. The petition must specify disputed issues of material fact. If you fail to include a separate petition or if that separate petition fails to meet the requirements of Section 120.57(1), F.S. and Rule 28-106.201, F.A.C., your request for this hearing will be denied and instead, you will be accorded the hearing described under option #2.

Option #2 ___ I do not dispute the material facts and want a hearing pursuant to Section 120.57(2), Florida Statutes, and Rule 28-106.301, F.A.C. This is a hearing before the Board of Accountancy.

Please Note: The law requires that your request for hearing be received by the Board Office on or before the twenty-first (21) day after your receipt of the enclosed Notice of Intent to Deny. IF IT IS NOT RECEIVED ON OR BEFORE THE TWENTY-FIRST DAY, YOUR REQUEST FOR A HEARING MUST BE DENIED.

*Please print your name, address and telephone #:

Return this form to:
Denise Graves

Board of Accountancy
240 Northwest 76th Drive, Suite A
Gainesville, FL 32607-6635
Phone: 352-333-3505
Fax: 352-333-2508

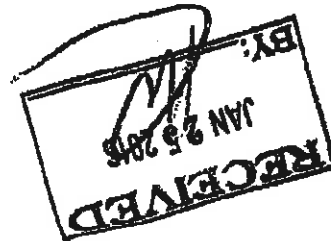
VW 2016-014

FILED	
<small>Department of Business and Professional Regulation Deputy Agency Clerk</small>	
CLERK	Brandon Nichols
Date	1/25/2016
File #	

PETITION FOR VARIANCE FROM RULE 61H1-27.002
Education – Concentration in Accounting & Business

Petitioner Information:

Steven J. Rodriguez, Jr.
325 NE 95th Street
Miami Shores, Florida 33138
Telephone: (415) 225-4342
Email: srod.83@gmail.com



Attorney Information:

Not Applicable

Applicable portions of the rules:

Rule 61H1-27.002(2)(a), Florida Administrative Code which states: if application for licensure is made after August 1, 1983, an applicant must have at least 150 semester hours or 200 quarter hours of college education, including a baccalaureate degree or higher conferred by an accredited college or university with a major in accounting, or its equivalent. The applicant's total education program shall include a concentration in accounting as follows: 36 semester or 54 quarter hours in accounting education at the upper division level which shall include coverage of auditing, cost and managerial accounting, financial accounting, accounting information systems, and taxation. Not more than 3 semester or 4 quarter hours may be internship programs which may be applied to the 36 semester or 54 quarter hours in accounting (internship courses must be taken in conjunction with other traditional coursework at an institution and must appear on the transcript).

The citation to the statute the rule is implementing:

Section 473.308 - Licensure

Type of Action Requested:

The petitioner requests that the Board of Accountancy grant a permanent variance from Rule 61H1-27.002(2)(a) due to the following circumstances.

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

As I mentioned in my letter to Governor Rick Scott on December 24, 2015, as well as in my subsequent conversation with Ms. Veloria A. Kelly, Division Director on January 15, 2016, my professional career is at a standstill without the license to practice as a Florida certified public accountant in spite of all reasonable, good faith efforts to satisfy the requirements per Rule 61H1-27.002.

My current employer and business partner, Judy O'Connor, CPA has been a CPA in the State of Florida for thirty years, and is planning her succession plan contingent upon my CPA license. There are currently eight employees that work with us, and we are just now entering the throes of tax busy season. This busy season in particular I will need to be performing at the partner/owner level, managing a large majority of the client relationships, managing our staff and conducting business on behalf of the Firm. The name is in the process of being changed to O'Connor & Rodriguez, P.A. however we must abide by the requirements that we cannot include "CPA" in our branding and name, as well as correspondence with clients, until my license is active. This is extremely imperative at this time when I must operate in the capacity of a managing CPA in order to maintain the business of the Firm, and to ensure that the clients are adequately serviced during this crucial time and henceforth.

Here is a timeline of my educational and professional experience and prior communications with the Florida Board of Accountancy:

1. December 2004: Graduated UCLA. Major in Business Economics and Accounting with a French Minor
2. January 2005 – May 2008: PricewaterhouseCoopers, Tax Associate and Tax Senior Associate, San Francisco Office
3. August 2008 – December 2010: BDO Seidman, Senior Tax Associate
4. January 2011 – December 2014: I. Salver, CPA, PA, Tax Manager
5. January 2015 – Present: Judy O'Connor, CPA, PA, currently being considered for Tax Partner, contingent upon licensure as a Florida Certified Public Accountant
6. CPA Exam Results: Successfully passed all four parts

Application Timeline: To date, I have made all reasonable and good faith efforts to comply with the regulations, including:

1. Research on the Florida Department of Business and Professional Regulation's website. Numerous phone calls with persons at the Florida DPBR/Board of Accountancy regarding my transcripts and background to ascertain exact requirements I would need to fulfill
2. Analysis of my transcripts in light of the requirements, as well as conversations with the Florida DPBR since March 2015, at which point, notwithstanding being at the height of my tax busy season and studying/taking my remaining CPA exam sections, I calculated that I would need a few more classes to meet the Accounting Education requirements. Due to the fact that the Board will not officially analyze a transcript until the formal application is submitted, I had to do my best due diligence to ensure that I chose the correct classes, which included numerous conversations with the DPBR. Unfortunately, now the Cost Accounting class I believed I needed, and took at considerable expense, is not being accepted as

credit for my license. Neither is an internship that I believe should be, but was not included on my transcript roughly twelve years ago when I was at UCLA.

3. Wrote a letter to Governor Rick Scott and also spoke with Division Director, Veloria A. Kelly regarding the specific circumstances as they relate to the application for licensure. Additionally, I wrote a letter to the Board of Accountancy and corresponded directly with Mr. Richard Evans who, though very much empathetic to my particular situation and overall qualifications, regrettably could not push my application over the line due to minor technicalities as they relate to the Florida statutes.

The reason why the variance requested would serve the purpose of the underlying statute:

473.308(3) An applicant for licensure must have at least 150 semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university, with a concentration in accounting and business in the total education program to the extent specified by the board.

But for my above-mentioned internship that was completed yet not included on my transcript roughly twelve years ago at UCLA, and the Cost Accounting course that I completed through Nova Southeastern only to later find out that it was considered redundant, I meet the education requirements for licensure as a Florida certified public accountant. This in tandem with ten years of Accounting and Tax industry experience, including Big 4 audit and tax experience and training, also underline my overall qualifications to practice as a Florida CPA.

Petitioner Statement:

I completely understand and respect the rules of the Board of Accountancy, as well as the underlying need to ensure uniformity in addition to a broad, extremely high level of Accounting and Business acumen. I believe I satisfy both to a very large and very well-proven degree. Not to mention my current career is at a veritable standstill until the license is issued, as is Judy O'Connor, CPA's. Not getting the aforementioned credit will delay this process even further and create extreme difficulty and hardship for me, my current employer and clients. It is my sincere belief that my educational background and work experience make me an extremely qualified candidate for the Florida CPA license, and I respectfully request the Board to approve my request at this time.