

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	12/13/2018
File #	2018-10102

**IN RE: PETITION FOR VARIANCE BY
EARL LAWRENCE**

VW 2018-211

ORDER DENYING PETITION

Petitioner, Earl Lawrence, filed a petition for a temporary variance from the requirements of Rule 61H1-33.006(2)(a), Florida Administrative Code (FAC), on September 27, 2018. The notice of the petition appeared in the Florida Administrative Register on October 4, 2018, in Volume 44 Number 194; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on November 9, 2018, in Tampa, Florida. At the hearing on this matter, Petitioner was not present; the Board was represented by Rachelle Munson, Assistant Attorney General.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Petitioner is a licensed certified public accountant whose license reverted to delinquent status on January 1, 2018, after he failed to timely submit the renewal fee for his CPA license by December 31, 2017.

2. Petition reflects that he mailed his renewal fee on September 1, 2017, to the Department of Business and Professional Regulation (DBPR) and completed all the necessary continuing professional education (CPE) for the license period of 2016-2017. Petition also reflects that Petitioner was unaware that DBPR never received his renewal fee check and his license went into delinquent status. On September 1, 2018, Petitioner sent a check for his renewal fee to DBPR.

3. Rule 61H1-33.006(2)(a), FAC, provides that an applicant for reactivation shall satisfy the requirements of their most recent biennium while active plus 40 additional CPE hours.

4. Petitioner had completed the number of CPE hours required for the most recent biennium and seeks a temporary variance from Rule 61H1-33.006(2)(a), FAC, to waive the requirement for

completing the additional 40 hours of CPE required to reactivate a delinquent license.

GROUND FOR DENIAL

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


5. Petitioner failed to establish that the purpose of the underlying statutes, Sections 473.312 and 473.313, Florida Statutes, would be met were he to be granted a variance from the rule.

7. Petitioner further failed to establish that the Board's application of Rule 61H1-33.006(2)(a), FAC, 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 7th day of December, 2018, by the Florida Board of Accountancy.



Velofia A. Kelly, Division Director

NOTICE TO PETITIONER

The Petitioner may seek review of this Order, pursuant to Sections 120.569 and 120.57, FS, 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 the Petitioner disputes any material fact upon which the Board's decision is based, Petitioner may request a hearing before an administrative law judge pursuant to Section 120.57(1), FS; the 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 Petitioner does not dispute any material fact, Petitioner may request a hearing before the Board pursuant to Section 120.57(2), FS; the petition must include the information required by Rule 28-106.301, FAC, a copy of which is enclosed. If Petitioner requests a hearing, Petitioner has 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, Petitioner is 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: **Earl Lawrence**, 1322 Madison Street, Hollywood, Florida 33019; and to: Kenneth Plante, Chief Attorney, Joint Administrative Procedures Committee, Pepper Building, Room 680, 111 W. Madison Street, Tallahassee, Florida 32399-1400; and by electronic delivery to: Rachelle Munson, Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com this 13th day of December, 2018.

Brandon M. Nichols

Jonathan Zachem, Secretary

Rick Scott, Governor

MEMORANDUM

TO: Jonathan Zachem, Secretary
Reginald Dixon, Chief of Staff

FROM: Paul Waters, Deputy Secretary

SUBJECT: Delegation of Authority

DATE: September 12, 2018



I, Paul Waters, hereby delegate to Angela Francis, signature authority on behalf of Director Veloria Kelly due to a medical emergency. All documents signed on Director Kelly's behalf should have a copy of this Delegation of Authority attached.

PW/tr

September 27, 2018

Petition for Variance of Rule 61H1-33.006 (2) (a)

Earl Lawrence
1322 Madison St.
Hollywood, FL 33019
954-929-9813
Email earl@earlpcb.com

VW 2018-211

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REC
SEP 27 2018
BY:

It is hereby requested that a variance from rule 61H1-33.006 (2) (a) be applied as it pertains to Florida Statute 473.311 **(1)The department shall renew a license issued under s. 473.308 upon receipt of the renewal application and fee** and upon certification by the board that the Florida certified public accountant has satisfactorily completed the continuing education requirements of s. **473.312**.

(2) The department shall adopt rules establishing a procedure for the biennial renewal of licenses issued pursuant to this section.

It is requested that the DPBR accept the payment issued on September 1, 2018 Nonc Pro Tunc so that license of Earl Lawrence AC0020625 is current and in good standing and that no further action is required by Earl Lawrence to be in good standing for the period ending December 31, 2017. Petitioner is requesting this variance on a one-time basis and is not intending this to be a recurring matter.

I have been a licensed Certified Public Accountant in the state of Florida since February 23, 1989. Since the time of my licensure I have never had any complaints or any violations with the Board of accountancy.

On September 1, 2017, I remitted check 19311 to the DPBR in the amount of \$105.00 for the renewal of my CPA license. I even mailed the check out early to make sure that the board received it prior to the December 2017 deadline. I completed all the necessary continuing education for the licensed period 2016-2017.

Unbeknownst to me that the DPBR never received my check that I issued. My license went into delinquent status because of the DPBR never receiving my check. As soon as I became aware of this on September 1, 2018 I re-issued a new check. I sent out check# 19311 dated September 1, 2018 to the DPBR in the amount of \$105.00

After the check was issued I assumed that everything was satisfactory regarding the renewal of my license. I did everything to comply with the renewal of my license, I sent to the board my continuing education hours along with the proper amount that needed to be tendered to the DPBR.

I received correspondence from the DPBR stating that for me to have my license removed from a delinquent status I would need to petition the Florida Board of accountancy under rule 61H1-33.006 (2) (a) or alternatively obtain additional 40 CPE hours.

A good faith effort was made to comply with Florida Statute 473.311 for the renewal application fee. A check was mailed out on a timely basis however the check was never received by the DPBR. The check was either lost in the mail, stolen or misplaced all of which was out of the petitioner's control once the check was delivered to the post office. Quite possibly the check was never received by the DPBR because of a rash of burglaries at the local post office located at 1801 Polk St., Hollywood, FL 33020 where the check to the DPBR was mailed from. The burglary of post office mailboxes can be confirmed by the US postal inspector Blad.Rojo.

It would be an undue hardship for the petitioner to take an additional 40 hours of continuing education when an initial renewal payment was made in good faith. Petitioner has always renewed his license on a prompt and timely basis. Under Florida statute 120.542 (2) the DPBR and Board of accountancy can provide relief to the petitioner that the underlying statute which in this case is for 473.311 has been achieved and when the application of rule would create a substantial hardship or would violate principles of fairness.

Sincerely,



Earl H Lawrence

Certified Public Accountant