

STATE OF FLORIDA
BOARD OF ACCOUNTANCY

FILED	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	8/27/2018
File #	2018-07023

IN RE: PETITION FOR VARIANCE BY
JASON ALAN FRANZEL

VW 2018-129

**NOTICE OF INTENT TO GRANT PETITION
WITH CONDITIONS**

Petitioner, Jason Alan Franzel, filed a petition for a temporary variance from the requirements of Rule 61H1-33.006(2)(b), Florida Administrative Code (FAC), on June 27, 2018. The notice of the petition appeared in the Florida Administrative Register on July 6, 2018, in Volume 44 Number 131; no comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on August 10, 2018, in Ft. Lauderdale, Florida. 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 a licensed certified public accountant whose license reverted to delinquent status on January 1, 2016, after he failed to timely submit evidence of completing the required number of continuing professional education (CPE) hours and pay the renewal fee for his CPA license by December 31, 2017. Petitioner states his failure to timely renew was due to a prolonged medical condition impacting his physical and cognitive abilities that required him to be on medical leave from August 2015 through October 2017.
2. Petitioner applied to reactivate his license on December 4, 2017, evidencing completion of 96 hours of CPE with 62.50 hours in accounting and auditing, four hours in

board approved ethics completed by November 22, 2017. He remitted \$380.00 on November 14, 2017, which included a \$105 renewal fee, a \$250 reactivation application fee, and a \$25 delinquent fee. Petitioner's license reverted to null and void status on January 1, 2018, as a result of his not completing the reactivation process or placing his license on inactive status by December 31, 2017. He was notified that he was deficient an additional 104 hours of CPE with sufficient proof of attendance.

3. Rule 61H1-33.006(2)(b), FAC, provides that an inactive applicant for reactivation shall satisfy the requirements of their most recent biennium while active plus 120 additional CPE hours.

4. Petitioner had completed the number of CPE hours required for his most recent biennium and seeks a temporary variance from Rule 61H1-33.006(2)(b), FAC, to waive the requirement for completing the additional 120 hours of CPE required to reactivate an inactive license.

GROUND FOR APPROVAL WITH CONDITIONS

The Board determined that the petition for variance should be granted with the following condition: Petitioner will provide evidence satisfactory to the Board office by October 31, 2018, that he completed eighty (80) hours of CPE for the 2013-2015 reestablishment period.

5. Petitioner established 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 with conditions.

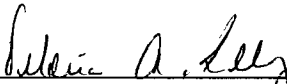
6. Petitioner further established that the Board's application of Rule 61H1-33.006(2)(b), FAC, to his circumstances would violate principles of fairness and impose

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 20th day of August, 2018, 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, 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, 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 Jason Franzel, 837 W. Tropical Way, Plantation, Florida 33317; and to, Kenneth Plante, 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 27th day of August, 2018.

Brandon M. Nicks

RECEIVED

JUN 28 2018

DBPR Agency Clerk

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/27/2018
File #	

Petitioner Information:

Jason Franzel
 837 W Tropical Way
 Plantation, FL 33317
 (954) 298-4262
 Application Number: 370918
 Re: License AC45237

RECEIVED
 JUN 27 2018
 BY:

VW 2018-129

Attorney Information:

Not applicable

Applicable portions of the rules: 61H1-33.006(c) Inactive or Delinquent Florida Certified Public Accountants Who Desire to Become Active Licensees.

- (1) Each Florida certified public accountant who has requested inactive status or became delinquent, as distinguished from a Florida certified public accountant whose certificate or license has been suspended, who desires to become an active Florida certified public accountant, i.e., engage or reengage in the practice of public accounting in Florida, shall apply for such reactivation by completing and submitting to the Department Form DBPR CPA 5011-1 – Request for Change of Status, hereby incorporated by reference and effective 7-23-06; copies of the form may be obtained from the Board office. However, if a license is delinquent on January 1 for failure to comply with Rule 61H1-33.003, F.A.C., through failure to report compliance with continuing professional education requirements by the immediately prior December 31st, a Florida certified public accountant may reactivate, pursuant to Section 473.311, F.S., by certifying the required hours have been completed, paying the fees required by Rules 61H1-31.003, 31.004 and 31.006, F.A.C., by March 15 of the same year of the delinquency.
- (2) Each such application shall demonstrate successful completion of the required number of continuing professional education hours.
- (b) Florida certified public accountants who have been inactive for no more than two reporting periods since maintaining a current/active license, shall satisfy the requirements of their most recent biennium plus 120 additional CPE hours in the following manner:

Accounting/Auditing	Ethics	Behavioral	Total Hours
At least 30 hours	At least 4 hours	No more than 20 hours	200 Hours

The citation to the statute the rule is implementing:

61H1-33.006(a) Inactive or delinquent Florida Certified Public Accountants Who Desire to Become Active Licensees.

Type of Action Requested:

The petitioner requests that the Board of Accountancy please grant a variance for Rule 61H1-33.006(a) FAC Inactive or Delinquent Florida Certified Public Accountants Who Desire to Become Active Licensees.

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

I experienced a prolonged medical condition impacting my physical and cognitive abilities that required me to be on medical leave from my employer from August 2015 through October of 2017 (please see attached letter from my physician). This precluded my ability to complete the CPEs required under the time prescribed.

Upon release from medical leave by my doctor in October 2017, I completed 96 CPE hours, 16 hours in excess of the required biennium, prior to December 31, 2017. Unfortunately, I was unable to complete the additional required 104 CPEs, required under the Rule, prior to December 31, 2017 due to continued illness, medical treatment, and employment obligations.

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

Purpose of the underlying statute to keep up to date and was trying to follow the rule's intent to stay current on continuing education requirements. However, due to the extenuating circumstances, I was unable to complete the 200 total hours required under Rule 61H1-33.006(2)(b).

Petitioner Statement:

If it pleases the Board, I will complete additional continuing professional education hours within the current biennium. I'm looking forward to resuming my career and the ability to once again practice as a Certified Public Accountant.