

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
RONALD ROOKS**

VW 2021-080

NOTICE OF INTENT TO DENY PETITION

Petitioner, Ronald Rooks, filed a petition for a permanent variance from **Rules 61H1-31.004 and 61H1-31.006, Florida Administrative Code (F.A.C.)**, on May 17, 2021. The notice of the petition appeared in the Florida Administrative Register on June 2, 2021, in Volume 47 Number 106. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Florida Board of Accountancy (“Board”) held on June 18, 2021, via telephone and video conference. Petitioner was present at the proceeding and was not represented by counsel. The Board was represented by Rachelle Munson, Assistant Attorney General. The Petition is incorporated by reference herein and attached to this notice.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Section 455.275(1), (2), Florida Statutes, in relevant part, states the address of record requirements:
 - (1) Each licensee of the department is solely responsible for notifying the department in writing of the licensee’s current mailing address, e-mail address, and place of practice, as defined by rule of the board or the department when there is no board. A licensee’s failure to notify the department of a change of address constitutes a violation of this section, and the licensee may be disciplined by the board or the department when there is no board.
 - (2) Notwithstanding any other provision of law, service by regular mail or e-mail to a licensee’s last known mailing address or e-mail address of record with the department constitutes adequate and sufficient notice to the licensee for any official communication to the licensee by the board or the department except when other service is required pursuant to section 455.225, F.S.

2. Rule 61H1-31.004, F.A.C., states:

A delinquent status licensee shall pay a delinquency fee of \$25.00 when the licensee applies for active or inactive status.

3. Rule 61H1-31.006, F.A.C., states:

The application fee for reactivation of an inactive status license to active status shall be \$250.00; for reactivation of a delinquent status license to active, \$250.00. In all cases completion of the requirements of Rule 61H1-33.006, F.A.C., shall be required for reactivation.

4. Petitioner, whose license reverted to a delinquent status when he failed to timely renew, acknowledged that his email address of record with the Department of Business and Professional Regulation ("Department") had not been active for seven (7) years.

5. Petitioner acknowledged the Department informed him that nine (9) renewal notices emailed to him between October 2020 and January 2021 were returned as undeliverable.

6. Petitioner asserts he was not otherwise contacted by the Department regarding the licensure renewal prior to the due date.

7. Petitioner, accordingly, requests a permanent variance of Rules 61H1-31.004 and 31.006, F.A.C., to the extent necessary for the Board to find that he has met the requirements for renewal without penalty in this case.

GROUND FOR DENIAL

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


8. Petitioner did not establish that the purpose of the underlying statute, Section 473.305 and 473.313, F.S., would be met were he to be granted a variance from Rules 61H1-31.004 and 61H1-31.006, F.A.C., regarding licensure renewal fees and reactivation requirements.

9. Petitioner further did not establish that the Board's application of Rules 61H1-31.004 and 61H1-31.006, F.A.C., to his circumstances would violate principles of fairness or impose a substantial hardship on him.

It is therefore **ORDERED** that the petition is **DENIED**.

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

DONE AND ORDERED this 19th day of July, 2021, by the Florida Board of Accountancy.


Roger Scarborough, Division Director
Florida Board of Accountancy

NOTICE OF RIGHT TO HEARING

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 **Ronald Rooks**, 1 Barbados Avenue, Unit 2D, Tampa, FL 33606; 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 and Cassandra Fullove, Paralegal, at Cassandra.Fullove@myfloridalegal.com this 26th day of July, 2021.

Brandon M. Nichols

VW 2021-080

RECEIVED

MAY 17 2021

**Florida Division of
Certified Public Accounting**

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	5/17/2021
File #	

Petition for waiver of Board of Accountancy Rule 61H1-31.006, F.A.C.

**Ronald D. Rooks
1 Barbados Avenue
Unit 2D
Tampa, FL 33606
813-258-3620
Cell 813-215-2738**

Waiver/abatement of the application fee for reactivation of a delinquent status license to active, (Rule 61H1-31.006, F.A.C.)

Request made pursuant to Section 120.542 of Florida Statutes, and Rule 28-104-002, F.A.C.

Requesting waiver/abatement of the \$250 reinstatement fee under Rule 61H1-31.004, F.A.C.

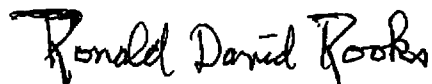
Recently I was shocked to learn from a former partner that my CPA license at DBPR showed active/ delinquent. There was no intent to let my license lapse. Upon sending an email inquiry to DBPR I was advised records show I was emailed nine renewal notices between 10/01/2020 and 01/04/2021, and owed \$380 to renew. I retired from active public practice in 2014, but have retained active status, fulfilling all Continuing Education requirements, and paying the annual fee to maintain active status because I received paper invoices via USPS. Unfortunately, the email address at my old firm had not been active for 7 years, and undoubtedly came back to DBPR as undeliverable during this period, including 2020. But no one contacted me via the phone or mailing information in the DBPR database.

Subsequently I spoke by phone with a DBPR representative as to why the \$380 (four times the \$95 I last paid in October 2019 after having received a paper invoice). She advised that it is due to a \$ 250 reinstatement fee, and a \$ 25 late payment penalty. When asked, she stated that DBPR did not mail out paper invoices in 2020, only emails.

Perhaps this was due to Covid virus and the caution surrounding returning to DBPR offices. If so, it seems DBPR and the Board of Accountancy should show the same concern for licensees who did not receive a paper invoice (as I have for 48 consecutive years and paid timely each year) and **waive** at least the **reinstatement fee**. I respectfully **request that you waive/abate such reinstatement fee.**

This waiver/abatement is requested for this instance only. Because I am retired from public practice, I have not practiced while unlicensed during the subsequent period.

My guess is of the 490,000 licensees DBPR services, there are no doubt thousands of others with similar circumstances, including many CPA's. A change from mailed paper invoices to email invoices with no advanced notice (and no follow up on **returned** emails) by a private company would not be tolerated. Neither should it be by government agencies. This violates the principle of fairness and does not serve the interest of the public or the accounting profession under Sections 473.305 and 473.313 of Florida Statutes



Ronald David Rooks
Certificate # 3154
October 1, 1971