

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE OR WAIVER BY
VICENTE ALZATE**

NOTICE OF INTENT TO DENY PETITION

VW 2021-091

Petitioner, Vicente Alzate, filed a petition for a permanent variance from the requirements of **Rules 61H1-31.004 and 61H1-31.006, Florida Administrative Code (F.A.C.)** on June 14, 2021 and as amended and filed on June 15, 2021. The notice of the petition appeared in the Florida Administrative Register on July 2, 2021, in Volume 47 Number 128. No comments by interested persons were received. The petition was heard at a duly-noticed public meeting of the Board of Accountancy on August 6, 2021, in Tampa, Florida. Petitioner was neither present nor represented for the proceeding. The Board was represented by Rachelle Munson, Assistant Attorney General. The petition (**Exhibit 1**) is attached hereto and incorporated by reference.

STATEMENT OF RELEVANT FACTS

The facts relevant to the petition are as follows:

1. Rule 61H1-31.004, F.A.C., provides that

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

Rule 61H1-31.006, F.A.C., provides that

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.

2. Petition states Petitioner paid a reactivation fee of \$250.00 by check dated

December 19, 2019 and received on June 11, 2021 a response letter dated

January 9, 2020, from the Department of Business and Professional Regulation

(Department)

3. Petition further states that Petitioner did not otherwise receive from the Department any follow-up via telephone call or text message regarding the January 2020 letter.
4. The Department's records reflect the Petitioner's reactivation application was approved on January 9, 2020, and the license expired on December 31, 2020. The reactivation information was included in the Department's reactivation letter dated January 9, 2020 (**Exhibit 2**), including the amount needed to renew for the Reestablishment period.
5. Petitioner's license reverted to delinquent status on January 5, 2021 for failing to pay the renewal fee by the deadline.
6. Petitioner seeks a permanent one-time waiver of the requirements of Rules 61H1-31.004 and 31.006, F.A.C., to the extent necessary for the Board to determine he should not be required to pay delinquent and reactivation fees.

GROUND FOR DENIAL

The Board determined that based on the requirements of Rules 61H1-31.004 and 31.006, F.A.C., the petition should be denied on the following grounds:

7. Petitioner failed to establish that the purpose of the underlying statute, Section 473.305, F.S., would be met were he to be granted a variance from Rules 61H1-31.004 and 31.006, FAC.
8. Petitioner further failed to establish that the Board's application of Rules 61H1-31.004 and 31.006, F.A.C., resulting from the licensee's error in timely remitting payment for the renewal of his CPA license, would violate principles of fairness and impose a substantial hardship on him.

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

This Notice shall become effective upon filing with the Clerk of the Department of Business

and Professional Regulation.

DONE AND ORDERED this 20 day of August, 2021, by the
Florida Board of Accountancy.

FLORIDA BOARD OF ACCOUNTANCY


Roger Scarborough
Director, Division of Certified Public Accounting


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 **Vicente Alzate**, 755 South Lope Lane, Glendora, CA 91740, and to Kenneth Plante, Chief Attorney, Joint Administrative Procedures Committee, 111 W Madison Street, Pepper Building, Room 680, Tallahassee, Florida 32399-1400, and by electronic delivery to: Rachelle Munson, Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com; Cassandra Fullove, Paralegal, at Cassandra.Fullove@myfloridalegal.com this 30th day of August, 2021.

September 2, 2021


Brandon M. Nichols

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/15/2021
File #	

Amended

RECEIVED

6/15/2021

JUN 15 2021

Florida Division of
Certified Public Accounting

Mr. Roger Scarborough
 Division Director
 Florida Board of Accountancy
 240 Northwest 76th Drive, Suite A
 Gainesville, FL 32607

VW 2021-091

Petition for Waiver of Rule §§ 61H1-31.004 & 61H1-31.006

Dear Mr. Scarborough.

I am requesting a petition for waiver of the delinquency fee per Rule §61H1-31.004 in the amount of \$25 and reactivation fee per Rule §61H1-31.006 in the amount of \$250 as stated below in part:

- Rule §61H1-31.004 Delinquency Fee- A delinquent status licensee shall pay a delinquency fee of \$25.00 when the licensee applies for active status.
- Rule §61H1-31.006 Reactivation Fee- The application fee for reactivation of a delinquent status license to active, \$250.00.

Based on §120.542(2) F.S. waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principle of fairness. "Substantial hardship" means a demonstrated economic hardship to the person requesting the waiver. "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

I am requesting a permanent one-time waiver of the above-mentioned delinquency fee per Rule §61H1-31.004 and reactivation fee per Rule §61H1-31.006 because these charges would create a substantial economic hardship and it would be a violation of fairness based on §120.542(2) F.S as demonstrated in the following facts:

- I was audited for CPE. See Case #2017012067 & File #16258
- I successfully completed the CPE audit.
- I paid a reactivation fee of \$250 by check #6093 dated 12-9-2019 payable to Department of Business & Professional Regulation
- Upon receipt of the check by the Department of Business & Professional Regulation, my CPA license in effect became "active."

- However, I did not receive the letter from the Florida Board of Accountancy dated January 9, 2020 either by email or by regular mail until June 11, 2021. See attached email & letter.
- I did not get a phone call message regarding the above letter.
- I did not get a text message regarding the above letter.
- There were no guidelines received after the completion of the CPE audit and payment of the reactivation fee.
- Furthermore, the information on the website is incorrect.

Therefore, I am petitioning the Board that the waiver requested would serve the purposes of the underlying statutes due to reasonable cause. Further, I demonstrated a good-faith effort by issuing check #6093 as payment of the required reactivation fee of \$250. The waiver is permanent and for one-time only in order to fix a substantial economic hardship and fairness in the implementation of the above statutes.

I look forward to a prompt resolution of this matter. Thank you in advance for your consideration!

Sincerely,

Vicente Afable Alzate

755 South Lope Lane

Glendora, CA 91740

CPA #: 15873

Email: vicaalz@hotmail.com

Cell phone #: 626-673-3646

Fax #: 626-691-6187

FILED	
Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	6/14/2021
File #	

Jun 14 2021 2:37pm ***

6266916187

VW 2021-091

6/14/2021

RECEIVED
JUN 14 2021
Florida Division of
Certified Public Accounting

Mr. Roger Scarborough
Division Director
Florida Board of Accountancy
240 Northwest 76th Drive, Suite A
Gainesville, FL 32607

Petition for Waiver of Rule §120.542(2)

Dear Mr. Scarborough:

I am requesting a petition for waiver of the delinquency charges of \$275 (250 + 25) based on Rule §120.542(2) which states in part:

Waivers shall be granted when the person subject to the rule demonstrates that the purpose of the underlying statute will be achieved by other means by the person and when application of a rule would create a substantial hardship or would violate principle of fairness. "Substantial hardship" means a demonstrated economic hardship to the person requesting the waiver. "Principles of fairness" are violated when the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.

I am requesting a permanent one-time waiver of the delinquency charges because these charges would create a substantial economic hardship. Furthermore, it would be a violation of fairness as demonstrated by the following facts:

- I was audited for CPE. See Case #2017012067 & File #16258
- I successfully completed the CPE audit.
- I paid a reactivation fee of \$250 by check #6093 dated 12-9-2019 payable to Department of Business & Professional Regulation
- I did not receive the letter from the Florida Board of Accountancy dated January 9, 2020 until June 11, 2021. See attached email & letter.
- I did not get a phone call message regarding the above letter.
- I did not get a text message regarding the above letter.
- There were no guidelines received after the completion of the CPE audit and payment of the reactivation fee.
- Furthermore, the information on the website is incorrect.

Therefore, I am petitioning the Board that the waiver requested would serve the purposes of the underlying statute based on the above facts. The waiver is permanent and for one-time only in order to fix a substantial economic hardship and fairness in the implementation of the above statutes.

I look forward for a prompt resolution of this matter. Thank you in advance for your consideration!

Sincerely,

Vicente Afable Alzate

755 South Lope Lane

Glendora, CA 91740

CPA #: 15873

Email: vicaalz@hotmail.com

Cell phone #: 626-673-3646

Fax #: 626-691-6187
