

**STATE OF FLORIDA
BOARD OF ACCOUNTANCY**

**IN RE: PETITION FOR VARIANCE BY
JAMES MARTIN**

VW 2022-104

NOTICE OF INTENT TO DENY PETITION

Petitioner, James Martin, filed a petition for a permanent variance from **Rules 61H1-33.006, Florida Administrative Code (F.A.C.)**, on September 9, 2022. The notice of the petition appeared in the Florida Administrative Register on October 17, 2022, in Volume 48 Number 202. 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 December 16, 2022, via telephone and video conference. Petitioner was neither present nor represented by counsel. The Board was represented by Rachelle Munson, Senior 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. Petitioner's license reverted to a delinquent status on January 1, 2021, as a result of failing to timely renew his license.
2. Rule 61H1-33.006(2), F.A.C., states:
Each such application shall demonstrate successful completion of the required number of continuing professional education (CPE) hours as follows: Accounting/Auditing – At least 30 hours
Ethics – At least 8 hours
Behavioral – No more than 30 hours
Total Hours – 120 hours.
3. Petitioner submitted documentation showing 92 hours of completed CPE during June 11, 2019, to June 12, 2020, consisting of 92 hours of CPE with 21 hours of accounting and auditing, 67 hours of technical, and 4 hours of behavioral credit.
4. Petitioner noted a personal battle with cancer as a hardship he suffered from August

2020 to July 2022. Petitioner further noted he was undergoing "painful chemotherapy" and radiation treatment from November 4, 2020, to March 21, 2021.

5. Petitioner, accordingly, requests a permanent variance of Rules 61H1-33.006, 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:

6. 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 61H1-33.006, F.A.C. and related fees regarding licensure renewal and reactivation requirements.

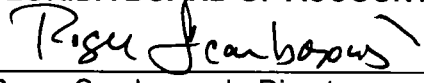
7. Petitioner further did not establish that the Board's application of Rule 61H1- 33.006, F.A.C, to his circumstances would violate principles of fairness or impose a substantial hardship on her.

It is therefore **ORDERED** that the petition is **DENIED**. The Board denied the petition with consideration given to the Petitioner's acknowledgement that it was her responsibility to timely renew her license.

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

DONE AND ORDERED this 12th day of January, 2023, by the Florida Board of Accountancy.

FLORIDA BOARD OF ACCOUNTANCY



Roger Scarborough, Director ✓
Division of Certified Public Accounting
for Steven Platau, Chair

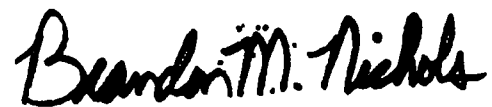
NOTICE OF RIGHT TO HEARING

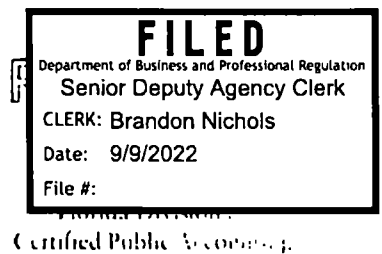
You may seek review of this Order, pursuant to Sections 120.569 and 120.57, Florida Statutes, by filing a petition with the Division Director of the Board, 240 Northwest 76th Drive, Suite A, Gainesville FL 32607, within 21 days of receipt of this Order. If you dispute any material fact upon which the 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 **James Martin**, 13845 SW 40th Street, Davie, FL 33330; 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, Senior Assistant Attorney General, at Rachelle.Munson@myfloridalegal.com; Cassandra Fullove, Paralegal, at Cassandra.Fullove@myfloridalegal.com; and to Tracy Smith, Paralegal, at Tracy.Smith@myfloridalegal.com this 23rd day of January, ~~2022~~ 2023 *(Bm)*





PETITION FOR WAIVER OR VARIANCE of BOARD OF ACCOUNTANCY RULES

September 7, 2022

VW 2022-104

Petitioner:
James J. Martin
13845 SW 40th Street
Davie, FL 33330
email: jimscpa@comcast.net
FL CPA License #: AC0023073

Dear Honorary Board:

Unfortunately, due to my recent battle with cancer, I recently noticed that I have become delinquent for my dues payment for the biennial renewal of my certified public accountant license for the period from July 1, 2018 to June 30, 2020 due December 31, 2020 in accordance with **Florida Statute 473.311**. Listed below are the directions to follow pursuant Regulatory Specialist Niyati Bhatt in her letter dated July 11, 2022 to reactivate my license with this petition.

Pursuant to the **Florida Board of Accountancy Rule 61H1-33.006**, since I am delinquent, I hereby desire to become an active Florida Certified Public Accountant, to re-engage in the practice of public accounting in Florida. In accordance with this rule, enclosed is a copy of my form **CPA 7** for such reactivation by submitting to the Department the completed and signed CPA change of status form.

On July 8, 2022 to reactivate my delinquent license with the enclosed faxed CPA change of status form, I paid the **Rule 61H1-31.006 \$250** renewal reactivation fee, the **Rule 61H1-31.004 \$25** delinquent fee in addition to the \$5 unlicensed activity fee, \$90 group 3 current accountant renewal fee, and the \$10 Clay Ford Scholarship fee totaling \$380 on the enclosed application summary receipt.

Further enclosed are my three completed pages of DBPR form **CPA 41**, Continuing Professional Education Reporting forms that lists 92 hours of continuing professional education performed to satisfy **Florida Statute 473.312** requirement completing at least 80 hours of CPE, 25 percent accounting and auditing related subjects and the 5 percent ethics requirement for the biennial June 30, 2020 reporting period. I retain the documents for proof of all these courses engaged in and can provide as necessary.

Pursuant to rule **28-104.002** this petition or waiver is requested because of the hardship I suffered from August 2020 to July 2022 from stage 3 rectal cancer. More specifically, during the December 31, 2020 dues reporting period from November 4, 2020 to March 21, 2021 I was undergoing

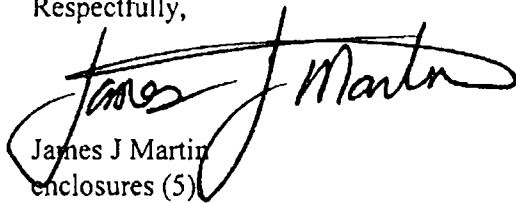
painful chemotherapy and radiation treatment as evidenced by the enclosed report issued by my doctor at Memorial Healthcare System Hospital. I have hence recovered from this cancer, but pursuant to the doctor's orders I am monitored quarterly with ongoing MRI's, Cat Scans, and colonoscopies. I also recently had knee surgery August 2nd and slowly recovering from that.

Now that I have recovered from this cancer. I would like to offer my clientele my expert service to perform before the Internal Revenue Service and their accounting and taxation needs as their CPA. I have utilized my hard work for this vast education that I have maintained for this treasured certified public accountancy license. I am duly proud of this certified public accountancy license I have attained for the integrity and independence that I represent to the public. This variance shall be permanent to reactivate my license. I act in good faith to retain this license, to represent my clientele and promote good business knowledge in today's standards.

I have hence also maintained my continuing professional requirements for the current biennial period that ended this past June 30, 2022 and will renew when this matter is cleared up before year end December 31, 2022.

Looking forward to my reactivation. Please contact me if you should require any additional information.

Respectfully,


James J Martin
enclosures (5)