

**CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.**  
**ANONYMOUS CASE HISTORIES PROJECT**

**SAMPLE ANONYMOUS CASE HISTORIES**  
**FOR PROGRAM DIRECTORS' CONFERENCE PURPOSES ONLY**

CERTIFIED BOARD OF FINANCIAL PLANNERS, INC.

ANONYMOUS CASE HISTORIES

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ACH for FINRA Discipline

FINRA AWC for 15-day Suspension

**18562** (ACH ID. No.)

Respondent disclosed that she had entered into a Letter of Acceptance, Waiver and Consent (AWC) with the NASD wherein, without admitting or denying the allegations, she consented to the entry of findings that: over a period of two months, Respondent placed 89 discretionary trades in a customer's account; the customer had granted Respondent full discretion to buy securities for her, but Respondent never obtained any written documentation evidencing this discretionary authority; Respondent did not advise her NASD member firm that she was acting with discretion in the customer's accounts and the member firm had not accepted that discretion in writing; and by exercising discretionary power in a customer's account without obtaining the customer's prior written authorization or the written consent of her member firm, Respondent violated NASD Conduct Rules. Respondent consented to a 15 day suspension. Following a hearing before the Board of Professional Review (Board), Respondent was issued a private censure with a strong recommendation that Respondent work in concert with a CFP certificant for at least one year.

**Code of Ethics:** 606(a), 103(a), 607 and 606(b)

**Mitigation:** The Board considered that there appeared to have been a blatant failure to supervise Respondent on the part of her broker/dealer.

**Aggravation:** The Board had concerns regarding Respondent's capability to perform independently.

**Decision:** Private Censure

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 11-2008-E2

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The following is a summary of a decision issued following the November 2008 hearings of the Disciplinary and Ethics Commission (“Commission”) of Certified Financial Planner Board of Standards, Inc. (“CFP Board”). The conduct at issue in this case occurred prior to July 1, 2008. The Rules in effect at that time under the *Code of Ethics and Professional Responsibility* (“*Code of Ethics*”) were Rules 101 through 705.

I. Issues Presented

Whether a candidate for certification (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he: 1) signed clients’ names on documents that the clients did not authorize Respondent to sign; and 2) violated the corporate policy of his broker-dealer (“Broker-Dealer”) in doing so.

II. Findings of Fact Relevant to the Commission’s Decision

In March 2007, Respondent’s Broker-Dealer began an internal review of Respondent. The Broker-Dealer believed Respondent had been signing clients’ signatures on documents in violation of the Broker-Dealer’s corporate policy. The Broker-Dealer determined that Respondent signed documents on behalf of four of his clients. The Broker-Dealer obtained a signed affidavit from each client affirming that the client did not authorize Respondent to sign for him or her. The Broker-Dealer determined that no client was harmed and closed the review.

The Financial Industry Regulatory Authority (“FINRA”, f/k/a the National Association of Securities Dealers or NASD) began an investigation of the forgery allegations against Respondent during the Broker-Dealer’s review. As part of its investigation, FINRA issued a Cautionary Letter to Respondent in which Respondent admitted that he signed clients’ names on several documents and submitted them to Broker-Dealer for processing.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

- A. *Rule 102 – In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement to a client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity.*

The Commission determined that Respondent identified documents used by the Broker-Dealer to process client information and requests as having been signed by the clients when the clients had: 1) not signed the documents; and 2) not authorized that Respondent sign the documents for them. The Commission concluded that Respondent engaged in conduct involving dishonesty,

fraud, deceit or misrepresentation or knowingly made a false or misleading statement to his clients in the course of professional activities. Thus, Respondent violated Rule 102.

*B. Rule 201 – A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.*

The Commission determined that Respondent admitted to forgery and found that forgery by a professional is not a reasonable and prudent act. The Commission found that Respondent failed to exercise reasonable and prudent professional judgment, and thus violated Rule 201.

*C. Rule 406 – A CFP Board designee who is an employee shall perform professional services with dedication to the lawful objectives of the employer and in accordance with this Code of Ethics.*

The Commission found that Respondent's actions subjected his employer, the Broker-Dealer, to regulatory risk and led to the FINRA investigation, a regulatory process. The Commission determined that Respondent failed to perform services with dedication to the lawful objectives of his employer because he subjected his employer to a regulatory process that caused his employer financial harm and loss of reputation. Thus, Respondent violated Rule 406.

*D. Rule 606(a) – In all professional activities a CFP Board designee shall perform services in accordance with applicable laws, rules and regulations of governmental agencies and other applicable authorities.*

The Commission found that Respondent failed to perform services in accordance with applicable regulations because he violated the Broker-Dealer's company policy when he signed documents for clients. Thus, Respondent violated Rule 606(a).

*E. Rule 606(b) – In all professional activities a CFP Board designee shall perform services in accordance with applicable rules, regulations and other established policies of CFP Board.*

The Commission found that Respondent failed to perform services in accordance with CFP Board rules, regulations and policies because he violated *Code of Ethics* Rules 102, 201, 406, 606(a), 607 and 701, as described herein. Thus, Respondent violated Rule 606(b).

*F. Rule 607 – A CFP Board designee shall not engage in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee, upon the marks, or upon the profession.*

The Commission found that Respondent engaged in conduct which reflects adversely on his integrity or fitness as a CFP Board designee, upon the marks and upon the profession because he signed clients' signatures on their behalf, without authorization from them, in violation of the Broker-Dealer's company policy and in violation of *Code of Ethics* Rules 102, 201, 406, 606(a), 606(b) and 701. Thus, Respondent violated Rule 607.

*G. Rule 701 – A CFP Board designee shall provide services diligently.*

The Commission found that Respondent failed to provide services diligently because he failed to inquire about company policy and failed to use good common sense when he forged signatures on client documents. Thus, Respondent violated Rule 701.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("Disciplinary Rules") provides grounds for discipline for any act or omission which violates the *Code of Ethics*. The Commission found Article 3(a) grounds for discipline based on the above rule violations. Pursuant to Article 4 of the *Disciplinary Rules*, the Commission issued an Order to Suspend Respondent's certification for four months. The Commission required Respondent to take five hours of continuing education courses in ethics prior to being certified. The Commission also ordered to withhold public notification as allowed under Article 4.3 of the *Disciplinary Rules*.

The Commission considered the following mitigating factors:

1. Respondent self-disclosed and was cooperative;
2. Respondent admitted to the allegations alleged by CFP Board and FINRA;
3. Respondent was contrite;
4. Respondent recognized the impact of his actions on clients, the Broker-Dealer and himself; and
5. Respondent personally appeared before the Commission.

The Commission cited no aggravating factors other than poor judgment.