

THE DISCIPLINARY AND ETHICS COMMISSION



IN THE MATTER OF
DARRYL RUFFEN, CFP®,
Respondent.

CFP Board Case No. 2022-63573

October 30, 2023

ORDER

I. Procedural Background

Certified Financial Planner Board of Standards, Inc. (“CFP Board”) granted Respondent the right to use the CFP®, CERTIFIED FINANCIAL PLANNER™,  and  certification marks (“CFP Board marks”) on February 5, 2015. (DEC Book at 16.)¹ He has been certified since that date. (*Id.*)

On March 23, 2022, CFP Board Enforcement Counsel delivered to Respondent a Notice of Investigation (“NOI”) requesting certain information and documents related to his 2021 arrest for Strangulation or Suffocation and Assault and Battery on Family/Household Member. (DEC Book at 64-65.) Respondent reportedly did not submit a written acknowledgment of the NOI within the requested time frame. (*Id.* at 66.) On May 4, 2022, Enforcement Counsel reiterated its request, sending Respondent a second copy of the NOI. (*Id.*) Respondent submitted a written acknowledgement the next day, May 5, 2022 (*id.* at 67) and provided some, but not all, of the requested documents. (*Id.* at 68-70.)

On June 1, 2022, and June 9, 2022, Enforcement Counsel delivered to Respondent Requests for Additional Information (“RFAI”) (*id.* at 69-70), to which Respondent responded on June 9, 2022, providing some information about his criminal matter. (*Id.* at 71-72). Over the following weeks, Respondent asserted that he could not obtain a copy of a police report requested by Enforcement Counsel, (*id.* at 71) and submitted a five-sentence narrative describing the incident that was the subject of the investigation. (*Id.* at 73.) On August 25, 2022, Respondent executed a release authorizing the relevant police authorities to provide a copy of the police report to CFP Board. (*Id.* at 74.)

On September 13, 2022, Enforcement Counsel delivered to Respondent a Notice of Oral Examination that set October 4, 2022, at 1:00 p.m. as the date and time for the examination. (*Id.* at 79-80.) The examination took place as scheduled, via web conference using the Zoom online platform. (*Id.*) Respondent, who was not represented by counsel, was questioned by Enforcement Counsel on the record for approximately thirty minutes. (*Id.* at 81, 104.)

On February 7, 2023, Enforcement Counsel delivered to Respondent a Notice of Complaint and Complaint that alleged a violation of CFP Board’s *Code of Ethics and Standards of Conduct (Code and Standards)* and set potential hearing dates in June 2023. (*Id.* at 5-13.) In accordance with Article 3.1 of the

¹ The DEC Book and any other exhibits to this Order will not be published under Article 17.7 of the *Procedural Rules*.

IN THE MATTER OF DARRYL RUFFEN, CFP®
CFP Board Case No. 2022-63573
October 30, 2023

Procedural Rules, Enforcement Counsel's Complaint included numbered paragraphs setting forth the grounds for sanction, including a detailed factual description of the conduct and a specific statement of the alleged violations. (*Id.*)

On August 9, 2023, a Hearing Panel of CFP Board's Disciplinary and Ethics Commission ("Commission" or "DEC") convened by video conference to review the above-described Complaint. (Transcript of Hearing of Darryl Ruffen, CFP®, August 9, 2023 ("Ruffen Tr.") at 1.) Enforcement Counsel appeared for CFP Board; DEC Counsel appeared for the DEC and for a Hearing Panel of the Commission; Respondent appeared *pro se*.

The Commission considered the Hearing Panel's recommendation and issued its final order on October 30, 2023.

II. Findings of Fact

A. Background

Respondent has passed the following FINRA examinations: (a) Series 7 – General Securities Representative Examination (2003); (b) Series 63 – Uniform Securities Agent State Law Examination (1995); (c) Series 66 – Uniform Combined State Law Examination (2004); (d) SIE – Securities Industry Essential Examination (2018). (DEC Book at 10.) Respondent is currently associated with a national firm as a broker and has been associated with that firm since December 2, 2003. (DEC Book at 10.)

B. Respondent's Criminal Charges

On June 4, 2021, Respondent was arrested for the following offenses: (a) Strangulation or Suffocation, under Mass. Gen. Laws ch. 265 §15D(b); and (b) Assault and Battery on a Family or Household Member, under Mass. Gen. Laws ch. 265 §13M(a). (*Id.* at 61.) Respondent was charged with these offenses in the Trial Court of Massachusetts, Haverhill District shortly thereafter, on June 7, 2021. On November 1, 2021, the Strangulation or Suffocation count was dismissed. (*Id.* at 61-62.) However, the Court found sufficient facts with respect to the Assault and Battery on a Family or Household Member charge and continued the matter without a finding until November 2, 2022. (DEC Book at 60.) Respondent was placed on probation for one year, from November 2, 2021, to November 2, 2022. (*Id.* at 57.) Respondent was also ordered to refrain from abuse and to complete an anger management program. (*Id.*) Respondent provided Enforcement Counsel with a certificate of completion for the anger management program dated February 24, 2022. (*Id.* at 63.)

During his CFP Board oral examination, and at hearing, Respondent explained that he had been involved in a "domestic confrontation" which led to a physical confrontation with a family member. (DEC Book at 89; Ruffin Tr. at 29-30.) Respondent claimed the allegations relating to the strangulation charge were fabricated or embellished by the police. (DEC Book at 97-98; Ruffen Tr. at 29-30.) Respondent testified that he engaged in physical contact with the victim by holding and restraining them, and those actions caused any marks on the victim that the police may have observed. (DEC Book at 97, 103-104.)

IN THE MATTER OF DARRYL RUFFEN, CFP®
CFP Board Case No. 2022-63573
October 30, 2023

C. Respondent's Demeanor and Credibility

Throughout the investigation and the hearing, Respondent took issue with the CFP Board's inquiry into a matter that, as he described it, did not involve a client or potential client, and that arose from his conduct in his personal, rather than professional, life. (DEC Book at 68-69; Ruffen Tr. at 59-60.) His discomfort and embarrassment were apparent, as was his reluctance to give many details about the incident in question. (Ruffen Tr. at 60-61.) Respondent ultimately acknowledged, however, that CFP Board, as a private standard setting body, has the authority to examine his conduct under its *Code and Standards*. (Ruffen Tr. at 59-60.) He stated that he valued the marks and would subject himself to CFP Board's disciplinary authority rather than simply abandon his certification. (Ruffen Tr. at 47-50, 60-61.)

During its investigation, Enforcement Counsel sought copies of various documents, including the police report from the domestic incident at issue. (DEC Book at 64-72.) While the police report was ultimately obtained after Respondent signed a release, the Commission believed that Respondent's assertions regarding his ability to cooperate and facilitate the release of the police report to Enforcement Counsel were not convincing. During the investigation, he had asserted that only the victim had the ability to obtain the police report. (DEC Book at 71; Ruffen Tr. at 60-61.) He did not, however, explain why he did not seek the victim's assistance in obtaining a copy of the report, particularly because they were, and still are, living in the same home. (Ruffen Tr. at 31.)

Respondent's continued denial of the severity of the incident and assertions that the police report was exaggerated are not consistent with the marks visually observed and noted by the responding officer at the time of the incident. (DEC Book at 52-53.)

III. Discussion of Respondent's Misconduct

To impose a sanction on Respondent, the Commission must find grounds for sanction. The Commission found grounds for sanction under the *Procedural Rules* because it determined that Respondent violated CFP Board's *Code and Standards*, as discussed below. The Commission made its decision based on the authority granted to it in Article 12 of the *Procedural Rules*.

First Ground for Sanction

Enforcement Counsel's Complaint alleged there are grounds to sanction Respondent for a violation of Standard E.2.a. of the *Code and Standards*, which provides that a CFP® professional may not engage in conduct that reflects adversely on his or her integrity or fitness as a CFP® professional, upon the CFP® marks, or upon the profession.

Conduct that reflects adversely on Respondent's integrity or fitness as a CFP® professional, upon the CFP® marks, or upon the profession includes the commission of acts that violate the criminal codes of any state and that result in a misdemeanor conviction for crimes of violence.

Article 7.1 of the *Procedural Rules* provides that a record from any court of criminal jurisdiction indicating that Respondent has been convicted of a crime in that court or admitted into a program that defers or withholds entry of a judgment of conviction ("Criminal Conviction"), is conclusive proof of the

IN THE MATTER OF DARRYL RUFFEN, CFP®
CFP Board Case No. 2022-63573
October 30, 2023

commission of the crime and that Respondent engaged in the criminal conduct that led to the Criminal Conviction.

The Trial Court of Massachusetts, Haverhill District, is a Massachusetts Commonwealth Court of criminal jurisdiction. The Criminal Docket No. 2138CR001414 and Order of Probation Conditions Upon Finding of Guilty or Sufficient Facts (“Order of Probation Conditions”) (DEC Book at 57-62) are records indicating that Respondent has been admitted into a program that defers entry of a judgment of conviction. Therefore, these records conclusively establish the commission of the underlying crime and that Respondent engaged in the criminal conduct for purposes of this disciplinary proceeding.

Respondent was a CFP® professional at all times relevant to this alleged violation. The Criminal Docket and Order of Probation Conditions evidence Respondent’s act of Battery, a misdemeanor and violation of Massachusetts law. Therefore, there are grounds to sanction Respondent for a violation of Standard E.2.a. of the *Code and Standards*.

IV. The Commission’s Decision

Pursuant to Article 12.3 of CFP Board’s *Procedural Rules*, the Commission’s final order must impose a sanction if the Commission finds a violation that does warrant a sanction. The Commission has discretion to order a sanction among those applicable sanctions set forth in Article 11.1.

After carefully considering the evidence in Respondent’s matter and the violation found, the Commission determined to issue Respondent an **Order of Public Censure**.

CFP Board issued its non-binding *Sanction Guidelines* that are intended to serve as guidance for determining appropriate sanctions. The Commission considered the following conducts and recommended sanctions from the *Sanction Guidelines*:

- Conduct 10: Conviction within the last 10 years of a Felony or any Relevant Misdemeanor involving probation only (Public Censure)

The Commission reviewed the mitigating and aggravating factors in this case to determine whether there were any material factors relevant to this matter, and, if so, what weight those factors may have in its decision.

The Commission considered in aggravation that:

1. Respondent was reluctant to fully connect the severity of his conduct to the impact on the CFP Board certification marks and the profession.

The Commission considered in mitigation that:

1. There was no client harm; and
2. Respondent has no prior disciplinary history.

IN THE MATTER OF DARRYL RUFFEN, CFP®

CFP Board Case No. 2022-63573

October 30, 2023

The Commission then consulted *Case Histories* (referred to as “ACHs” or “CHs”) and specifically considered ACH 43541. In ACH 43541, the CFP® professional was charged with a violation of Standard E.2.a.— the same provision of the *Code and Standards* that is at issue here — and received a Public Censure for a battery charge and deferred judgment that arose from a domestic dispute with his wife. The Commission determined this ACH was not only exceptionally similar in the fact pattern and context, but also very recent, and thus reflects the current *Code and Standards*.

After considering the violation found, the aggravating and mitigating factors, and the relevant ACH, the Commission did not find a compelling reason to mitigate or aggravate from the baseline sanction of a Public Censure. Thus, the Commission determined an Order of Public Censure appropriate.

Ordered by:

The Disciplinary and Ethics Commission

CFP Board

October 30, 2023