

**CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.  
WASHINGTON D.C.**

In the Matter of

Anthony F. Prieto, Jr.,

Respondent.

CFP Board Case No. 2022-63850

October 11, 2024

**ADMINISTRATIVE ORDER OF PERMANENT BAR**

On April 23, 2024, Enforcement Counsel for Certified Financial Planner Board of Standards, Inc. (“CFP Board”) filed a Motion for Order of Administrative Permanent Bar under Article 4.2 of CFP Board’s *Procedural Rules* (“Motion”) requesting that Counsel for the Disciplinary and Ethics Commission (“DEC Counsel”) issue an Administrative Order of Permanent Bar against Respondent. No oral argument was requested, and Respondent did not file a response to the Motion.

For the reasons stated below, the Motion is **GRANTED**.

**I. BACKGROUND**

Respondent became a CFP® professional on May 12, 2003. Respondent voluntarily relinquished his right to use the CFP Board certification marks, and his certification expired on July 31, 2023. (Motion, Ex.1 at 12-13.)

**A. Investigation, Complaint, and First Motion for Administrative Order**

The Motion states that Enforcement Counsel issued a June 2, 2022 Notice of Investigation and was actively investigating Respondent’s conduct as alleged by the Securities and Exchange Commission in a May 2, 2022 complaint filed against him (“SEC Complaint”). (Motion at 1-3.)

The SEC Complaint alleges that Respondent is a Certified Financial Planner® and president of a Florida for-profit corporation who, along with his co-defendants, defrauded individuals with disabilities into believing that they were placing their assets in two pooled trusts managed by a non-profit association in compliance with certain regulatory requirements related to Medicaid and Social Security benefits. (Motion, Ex.1 at 39-76.) The SEC Complaint alleges that the defendants used the non-profit trustee as a shell company to wrongfully divert fees to their for-profit corporation. (*Id.*) According to the allegations in the SEC Complaint, by engaging in this misconduct, Respondent and his co-defendants (a) employed a device, scheme or artifice to defraud in connection with the purchase or sale of any security in violation of the antifraud provisions of the Securities Act of 1933, the Securities Exchange Act of 1934, and the Investment Advisers Act of 1940; and (b) violated the registration requirements of the Securities Act. (*Id.*)

On November 21, 2023, Enforcement Counsel filed a Complaint on behalf of CFP Board asserting that the conduct alleged in the SEC Complaint provided grounds to sanction Respondent for violating several provisions of CFP Board’s *Code of Ethics and Standards of Conduct* (“*Code and Standards*”) and its *Rule of Conduct*. (*Id.* at 3-94.)

On April 10, 2024, Enforcement Counsel filed a motion seeking an Administrative Order imposing a Permanent Bar against Respondent under Article 4.1.e. of the *Procedural Rules*, citing Respondent's failure to file an Answer to CFP Board's Complaint as required under Article 3.

On April 16, 2024, Enforcement Counsel notified DEC Counsel that it was withdrawing its Complaint against Respondent and its April 10 motion premised on that Complaint. In its notice, Enforcement Counsel stated that it would be filing a new motion for an Administrative Order imposing a Permanent Bar—the Motion at issue here—based on Respondent's indicating a "clear intention to cease participation in CFP Board's investigation."

## **B. Motion**

Enforcement Counsel asserts in its Motion that the conduct the SEC alleges Respondent engaged in would violate Standards A.1.a., A.8.a., E.2, and E.3.b. of the *Code and Standards* and Rules 1.4 and 4.3 of the *Rule of Conduct*. The Motion points to the Breach of Fiduciary Duty and Fraud categories of conduct in CFP Board's *Sanction Guidelines* as recommending a suspension of at least one year and one day when applied to the conduct alleged in the SEC's Complaint. Enforcement Counsel states that it has determined that the seriousness, scope, and harmfulness of Respondent's conduct warrants an Administrative Order imposing a permanent bar against Respondent. (*Id.* at 4-5.)

Enforcement Counsel argues that Respondent's intentional decision to cease participating in CFP Board's investigation constitutes a default under Article 4.1.b. of the *Procedural Rules*. The Motion describes a November 30, 2023 videoconference in which "Respondent's counsel indicated that Respondent would like to resolve the case through the default process." (*Id.* at 3-4.) Attached as an exhibit to the Motion is an email sent that day from Enforcement Counsel to Respondent's counsel referring to a discussion about their shared interest in a resolution, and stating that CFP Board would withdraw its Complaint against Respondent and file a motion under Article 4.2 of the *Procedural Rules* once Respondent's counsel sent an email indicting that Respondent would no longer participate in CFP Board's investigation. (Motion, Ex.1 at 96.)

Enforcement Counsel states that on April 11, 2024, it conferred by email with Respondent's counsel about the Motion, and that Respondent confirmed through counsel that he would cease participating in CFP Board's investigation and expected CFP Board to pursue the relief sought in the Motion. (Motion at 4.) The Motion attaches as exhibit an April 11, 2024 email from counsel confirming Respondent's intention not to participate in CFP Board's process and that he understood the order being sought would be based on that failure to comply. (Motion, Ex.1 at 102.)

## **II. DISCUSSION**

If Respondent indicates a clear intention not to participate or to cease participation in a CFP Board investigation, then Respondent is in default under Article 4.1.b. of the *Procedural Rules*.

Enforcement Counsel's Motion states with reasonable particularity the grounds for Respondent's default, as required by Article 4.2 of the *Procedural Rules*. Respondent, through his counsel, indicated by email on April 11, 2024 his clear intention not to participate further in Enforcement Counsel's investigation of his conduct—this, after failing to file an Answer in response to the Complaint filed against him, as required under the *Procedural Rules*.

Enforcement Counsel filed the Motion based on its determination of the seriousness, scope, and harmfulness of Respondent's conduct, as required under Article 4.2 of the *Procedural Rules*. (*Id.* at 4.)

### III. CONCLUSION

DEC Counsel **GRANTS** the Motion and issues this **Administrative Order of Permanent Bar** against Respondent ("Order"). Respondent is permanently prohibited from applying for or obtaining CFP® certification. CFP Board publishes an Administrative Order in accordance with Article 17.7.

### IV. COMPLIANCE WITH ORDER

Pursuant to Article 11.2 of the *Procedural Rules*, Respondent is required to submit to Enforcement Counsel within 45 calendar days of issuance of this Order, or by **November 25, 2024**, written evidence that Respondent:

1. has advised Respondent's Firm(s), in writing, of this Order in the manner set forth in Standard D.3 of the *Code and Standards*;
2. has advised all Clients (as Client is defined in the Glossary to the *Code and Standards*) of this Order and provided all Clients the location of CFP Board's website that sets forth Respondent's disciplinary history in the manner set forth in Standard A.10 of the *Code and Standards*; and
3. will advise all future Clients of the location of CFP Board's website that sets forth Respondent's disciplinary history, according to Standard A.10 of the *Code and Standards*.

Pursuant to Article 11.3 of the *Procedural Rules*, within 45 calendar days from the date of this Order, or by **November 25, 2024**, Respondent is required to submit to Enforcement Counsel, by sending an email to [discipline@cfpboard.org](mailto:discipline@cfpboard.org), Respondent's statement of assurance that Respondent will not use the CFP Board certification marks and proof that Respondent has removed the CFP Board certification marks from all internet sites or other tangible materials that Respondent exposes to the public, including screenshots of the businesses, social media, and third-party financial advisor listing website profiles that Respondent controls, pictures of signage, and when applicable, copies of Respondent's business cards, letterhead, and marketing and promotional materials, as well as pictures of any other materials Respondent controls in which the CFP® marks previously appeared publicly in reference to Respondent or Respondent's services.. Failure to do so may result in further disciplinary or legal action regarding the unauthorized use of the CFP Board certification marks.

Issued by:

Counsel to the Disciplinary and Ethics Commission  
October 11, 2024