

THE DISCIPLINARY AND ETHICS COMMISSION

IN THE MATTER OF

DERRICK PAUL MYERS, CFP®,

Respondent.

CFP Board Case No. 2023-65036

March 20, 2025

ORDER

I. PROCEDURAL BACKGROUND

Certified Financial Planner Board of Standards, Inc. (“CFP Board”) granted Respondent the CFP Board financial planning certification and right to use the CFP Board certification marks, including the CERTIFIED FINANCIAL PLANNER®, CFP®, CFP®, and CFP® certification marks (“CFP® marks”), on March 6, 2000, and he has been certified since that date except for a brief period in 2017 and from December 2019 to June 2020. (DEC Book at 11.)¹

On May 15, 2024, CFP Board’s Enforcement Counsel filed a Complaint with CFP Board’s Disciplinary and Ethics Commission (“Commission”), alleging that Respondent violated Standard E.2.d. of CFP Board’s *Code of Ethics and Standards of Conduct* (“*Code and Standards*”) and Rule 6.5 of its prior *Rules of Conduct* based on Respondent’s outstanding federal tax lien. (*Id.* at 3-8.)

On June 28, 2024, Respondent filed an Answer to the Complaint, admitting to all the Complaint’s factual allegations and requesting “the chance to explain the circumstance, and the fact that lessons I have learned have been very valuable when dealing with other business owners ... to help them avoid making the [same] mistake....” (*Id.* at 116-122.)

On October 17, 2024, a hearing panel formed under Article 10.6 of the *Procedural Rules* convened by video conference to review and consider the Complaint, the Answer, witness testimony, and other relevant documents and information. (Transcript of Hearing of Derrick Paul Myers, CFP®, October 17, 2024 (“Tr.”) at 1.) DEC Counsel appeared for the hearing panel and for the Commission; Enforcement Counsel appeared for CFP Board; and Respondent appeared on his own behalf.

The Commission has considered the hearing panel’s recommendation and issues this final order.

II. FINDINGS OF FACT

¹ The DEC Book, hearing transcripts, and any other exhibits to this Order will not be published under Article 17.7 of the *Procedural Rules*. The *Procedural Rules* are available on CFP Board’s website at: www.cfp.net/ethics/enforcement/procedural-rules. (Last accessed on March 20, 2025.)

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A. Background

Respondent has passed the following FINRA examinations: (a) Series 6 – Investment Company Products/Variable Contracts Representative Examination (1993); and (b) Series 66 – Uniform Combined State Law Examination (1996). (DEC Book at 17.)

Respondent is employed as President of a firm that offers accounting, advisory, tax planning, and tax preparation services. On its website, the firm describes itself as tax experts. (*Id.* at 18, 107-111: “We are tax experts who can help you maximize your deductions and lower your overall tax burden. We know the tax code inside and out and can help you claim all of the deductions, exemptions and credits you deserve.”) Respondent is a Certified Public Accountant (CPA) and holds himself out as a Chartered Financial Analyst (CFA). (*Id.* at 18, 108, 113.) Respondent states he does not use his CPA or CFP® certification or engage in financial planning, although he uses the CFP® marks in his email salutation and at least once on his firm’s website. (*Id.* at 64, 108, 116; Tr. at 34, 55.)

Respondent has not been registered as a broker or investment advisor representative since 2010 (*Id.* at 15, 18; Tr. at 34.) He says that his business, focused on florists, seeks to help its 160 clients make their businesses more profitable. (*Id.*; *see also* DEC Book. at 107-115.)

B. Respondent’s Federal Tax Liens

1. Tax Years 2018 – 2020

Respondent admits that his firm failed to pay corporate payroll taxes in 2018, 2019, and 2020. (DEC Book at 72, 116; Tr. at 16.) Respondent testified that after his business partner of 35 years (and father-in-law) died in 2013, Respondent had to learn to run the business and discovered that the firm’s lines of credit had all been in his partner’s name. (Tr. at 32-33.) Respondent explained that because he could not access the firm’s credit, he had to choose between closing the business or tapping into other sources of funds to keep the business running—in this case, money that should have been used for payroll taxes. (*Id.*: “I found myself dipping into the payroll taxes. It was the only option I had at the time.”) Respondent stated that he has been working diligently to pay off the balances for the past four years, but enormous penalties and interest made it difficult. (*Id.* at 42.)

On January 12, 2022, the U.S. Internal Revenue Service (IRS) filed a federal tax lien against Respondent for \$147,901. (DEC Book at 74.) Respondent testified that the lien is levied against him individually because corporate payroll taxes involve a fiduciary element—the taxes are withheld from employees’ compensation, making him personally liable. (Tr. at 31; *see also* DEC Book at 68: “as an officer they have levied my [property] personally as a personal guarantor if the company fails to pay.”)

On February 10, 2022, when outstanding tax payments reached \$223,012.29, the firm entered into an installment agreement with the IRS to make monthly payments of \$1,500 beginning on April 10, 2022. (*Id.* at 77.) Respondent signed the installment agreement as President of the firm. (*Id.*)

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Respondent also entered his own personal installment agreement with the IRS to make monthly payments of \$500 on an outstanding balance of \$173,793.76, beginning on April 10, 2022. (*Id.* at 79.) Respondent stated that he has never missed making a payment under either installment agreement. (Tr. at 72.)

As of February 7, 2024, the firm's outstanding balance was \$127,469.20 (comprising \$71,375.84 for tax year 2019 and \$56,093.36 for tax year 2020). (DEC Book at 91.)

As of September 11, 2023, Respondent's outstanding balance was \$52,610.11 (all for tax year 2019). (*Id.* at 89.)

2. *Earlier Released Tax Liens*

Respondent does not currently owe any back taxes on his personal income; although tax records he provided show a history of late payments and missed payments, resulting in penalties, interest, and additional civil penalties (*id.* at 92-106), and the record reflects two other federal tax liens—relating to his personal income for the 2013-2016 tax years—that have since been released (*id.* at 68, 76.)

Respondent testified that a lien relating to the 2013 and 2014 tax years, arose out of a bad real estate investment that he sold at a loss due to the 2008 recession. (Tr. at 27-30; DEC Book at 68)

A second lien for \$25,188.72, relating to the 2015 and 2016 tax years, was levied January 22, 2022 and released August 2, 2023. (DEC Book at 76.) Respondent confirmed at the hearing that this lien was related to his personal income taxes. (Tr. at 50-51.)

In addition, on December 29, 2017, Respondent in his Annual Ethics Declaration to CFP Board marked “Yes” to Question 6., which asks: “Have you ever been a defendant or respondent in a civil action including, but not limited to, a lawsuit, arbitration or mediation?” (DEC Book at 34.) When asked to provide details, Respondent submitted only: “I had an E&O claim on a tax issue, I was correct but my E&O carrier chose to settle out of court.” (*Id.*) Enforcement Counsel did not question Respondent about this settlement.

III. DISCUSSION

The Commission has found grounds for sanction against Respondent under Article 12 of the *Procedural Rules*.

Grounds for Sanction

Standard E.2.d. of the *Code and Standards* states that a CFP® professional may not engage in conduct that reflects adversely on his integrity or fitness as a CFP® professional, upon the CFP® marks, or upon the profession. Such conduct includes, but is not limited to, conduct that results in a federal tax lien on property owned by the CFP® professional, unless the CFP® professional can

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rebut the presumption that the federal tax lien demonstrates an inability to manage responsibly the CFP® professional's financial affairs. Standard E.2.d. applies to conduct on or after June 30, 2020.

Rule 6.5 of the *Rules of Conduct* states that a certificant shall not engage in conduct which reflects adversely on his integrity or fitness as a certificant, upon the CFP® marks, or upon the profession. Rule 6.5 applies to conduct prior to June 30, 2020.

Respondent was a CFP® professional at all times relevant to this violation.

Respondent admits that he failed to satisfy his payroll tax liabilities as they came due in 2018, 2019, and 2020, and that the IRS filed a federal tax lien against him as a result. He admits that he and his firm continue to owe outstanding tax balances for tax years 2019 and 2020.

Respondent admits that he failed to satisfy several of his federal personal income tax liabilities as they came due, including in tax years 2015 and 2016, and that the IRS filed a federal tax lien against him as a result.

Respondent did not meet his burden to rebut the presumption of his inability to manage responsibly his financial affairs. At the time he failed to satisfy the payroll tax liabilities in 2018, 2019, and 2020, Respondent was a CPA and President of a firm offering expert tax services to clients. Respondent knew or should have known the consequences of failing to pay his personal income taxes and, as a fiduciary, his firm's payroll taxes.

Therefore, there are grounds to sanction Respondent for violating Standard E.2.d. of the *Code and Standards* and Rule 6.5 of the *Rules of Conduct*.

IV. THE COMMISSION'S DECISION

Under 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 warrants a sanction. The Commission has discretion to order a sanction among those in Article 11.1.

CFP Board's non-binding *Sanction Guidelines* serve as guidance for determining appropriate sanctions.² The Commission considered the following category of conduct or underlying rule violation (and sanction guideline) in the *Sanction Guidelines*.

- Conduct 21: Judgment (Public Censure)

The Commission also has considered whether there are relevant mitigating or aggravating factors in this case, including factors proposed by the parties.

² CFP Board's *Sanction Guidelines* are available on CFP Board's website at: <https://www.cfp.net/ethics/enforcement/sanction-guidelines>. (Last accessed March 20, 2025.)

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In mitigation, the Commission finds that:

1. Respondent has complied with two IRS installment agreements for approximately three years.
2. Respondent has no customer complaints and no disciplinary history.
3. There is no evidence that Respondent's conduct caused direct client harm.

In aggravation, the Commission finds that:

1. Respondent is a CPA, and he and his firm provide tax and accounting services to clients.
2. The amount Respondent and his firm owed the IRS was significant—nearly \$300,000 in total at the time they entered into installment agreements with the IRS.
3. Respondent's history of late and missed tax payments and multiple federal tax liens levied against him, spanning at least five tax years, indicate a pattern or practice that reflects Respondent's inability to manage responsibly his personal or business finances.
4. Respondent's conduct is ongoing—he and his firm still owe unpaid taxes, though he is making progress with installment agreements.

The Commission has also consulted various prior Case Histories³ (referred to as “CHs” or “ACHs”), including those identified by the parties, for any non-binding precedent that may be persuasive to its decision. This includes ACH 43598, where the Commission mitigated down based on a series of unplanned and unforeseeable traumatic family events that are not present in this matter.

In view of the foregoing, the Commission has determined not to deviate from the sanction guideline and issues this final Order imposing on Respondent a **Public Censure** with **Remedial Education** and **Additional Undertakings**.

Respondent must complete five (5) additional credit hours of continuing education on the topic of “Tax Planning” and provide periodic reports to CFP Board on the status of his progress on his tax debts by making a certification to CFP Board every six months for a total of three years.

Specifically, six-months from the effective date of this Order, and every six months thereafter for a total of three years (six certifications), Respondent shall certify to CFP Board's Enforcement Counsel by email to discipline@cfpboard.org:

³ Case Histories are available on CFP Board's website, at: www.cfp.net/ethics/enforcement/case-history.

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1. Respondent and his firm are complying with all IRS installment agreements;
2. Respondent and his firm have incurred no new liens; and
3. Respondent and his firm have timely filed all subsequent state and federal tax returns, paid timely and in full.

If Respondent fails to comply with the certification requirement described above, Respondent will be in default, as defined by Article 4 of the *Procedural Rules*, and may be subject to an Administrative Order under that Article in addition to any new potential grounds for sanction.

Ordered by:

The Disciplinary and Ethics Commission, CFP Board

Dated: March 20, 2025