

THE DISCIPLINARY AND ETHICS COMMISSION

In the Matter of

Michael D. Brown,

Respondent.

CFP Board Case No. 2024-66306

July 11, 2025

ORDER

CFP Board established the *Fitness Standards for Candidates for CFP® Certification and Former CFP® Professionals Seeking Reinstatement* (“*Fitness Standards*”) to ensure that an individual’s prior conduct does not reflect adversely upon their fitness for CFP® certification, the profession, or the CFP® certification marks.

I. PROCEDURAL HISTORY

Respondent submitted his application for CFP® certification on July 1, 2024 and disclosed that he had filed for personal bankruptcy in 2008. (DEC Book at 3, 16-17.) CFP Board informed Respondent by letter dated March 17, 2025 that under the *Fitness Standards*, his bankruptcy was conduct that required him to petition CFP Board’s Disciplinary and Ethics Commission (“DEC” or “Commission”) for a determination as to whether he is fit for CFP® certification. (*Id.* at 3-6.)

Respondent filed his Petition for Fitness Determination (“Petition”) on March 28, 2025. (*Id.* at 125-26.)

On April 23, 2025, a hearing panel formed under Article 10.6 of the *Procedural Rules* convened to consider Respondent’s Petition. (Transcript of Hearing of Michael Brown, April 23, 2025 (“Tr-1”) at 1.) DEC Counsel appeared for the Commission and for the hearing panel, Enforcement Counsel appeared by video for CFP Board, and Respondent appeared by video. The hearing continued with the same participants on May 23, 2025 (Transcript of Hearing of Michael Brown, May 23, 2025 (“Tr-2”) and June 16, 2025 (Transcript of Hearing of Michael Brown, June 16, 2025 (“Tr-3”), with Respondent represented by counsel the second two days.

The Commission has considered the hearing panel’s recommendation on Respondent’s Petition and issues this final Order.

II. FINDINGS OF FACT

A. 2008 Bankruptcy

On December 17, 2008, Respondent filed for Chapter 13 bankruptcy protection in the United States Bankruptcy Court for the District of Utah. (DEC Book at 5, 125.)

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Respondent explained in his response to Enforcement Counsel's August 14, 2024 notice of investigation, and in his Petition, that the bankruptcy occurred after a failed 2006 real estate investment. He says that a long-time friend at the time approached him about the purchase of a vacant lot that could be developed and sold for a profit. His friend, a mortgage loan officer, told Respondent that he would only need to use Respondent's credit for the transaction and that everything else was "lined up." (*Id.* at 5, 34-35, 125.)

The housing crisis that would lead to the 2008 financial collapse was "gearing up" at the time. (Tr-1 at 18.) Respondent says that while his friend made money on the loan, the home construction never took place, and Respondent was left with the bill. Respondent says he attempted to resolve the issue with his creditors but was unsuccessful. (DEC Book at 5, 34-35, 125.) His business income—tied to property and casualty home insurance—was also decreasing at the time due to the downturn in the housing market. (Tr-1 at 43.)

Facing legal action from his creditors with no way to make payments on the loan, Respondent filed for Chapter 13 bankruptcy protection. (*Id.* at 5, 34-35, 125.) He says that he chose Chapter 13—rather than Chapter 7—so that he could "at least pay something back, as meager as it might be." (Tr-1 at 44.) Respondent met the terms of his Chapter 13 installment plan (Tr-1 at 21-22), and his bankruptcy was discharged on February 3, 2012. (*Id.* at 6, 36-50, 125.)

Respondent describes the real estate transaction as "predatory" and himself as "dumb" for pursuing it. (*Id.* at 34.) He testified at the hearing that in making the 2006 investment, he was "blindly relying" on a friend he trusted, but that he (Respondent) ultimately accepted responsibility. (Tr-1 at 17-19.) He says that the experience led him to pursue the CFP® certification and to be a positive influence for clients. (Tr-1 at 17-19.)

B. Current Financial Circumstances

Respondent has been in the insurance industry for 27 years and has worked for the same large financial services company since 2000. (*Id.* at 26; Tr-1 at 11.) He has been a licensed insurance agent since 2009. (*Id.* at 26.)

Respondent says that his financial situation has "improved greatly" since his bankruptcy, not only through growth in his business and income, but because of the knowledge he has acquired by "learning everything I could about money, debt, credit, planning, investing and taxes." He says that he has educated himself since the bankruptcy with a number of resources, including coursework that helped prepare him for the CFP® certification exam, which he passed on his third try. (*Id.* at 35, 125; Tr-1 at 50; Tr-3 at 8.)

Respondent produced tax filings for the 2022 and 2023 tax years; three cash flow statements (dated December 31, 2023, August 15, 2024 and December 31, 2024); and two personal balance sheets (as of August 15, 2024 and December 31, 2024). (DEC Book at 118-22, 129.)

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The August 2024 cash flow statement reflects large negative monthly and annual cash flow figures, and the annual cash flow listed on his December 2023 statement is irreconcilable with his net annual household income and his expenses for that year. (*Id.* at 118-21.) The hearing panel also had concerns about the relatively small amount of liquid assets alongside substantial liabilities on his August 2024 balance sheet. (DEC Book at 122.)

At the hearing, Respondent explained that the negative cash flow figures on his August 2024 cash flow statement were a mistake resulting from his lack of familiarity with software his firm had recently implemented. (Tr-1 at 47.) The December 2024 cash flow statement he later provided, Respondent explained, “is a more accurate representation of my financial picture.” (*Id.* at 48.) That cash flow statement reflects higher (positive) annual cash flow than the earlier versions. (DEC Book at 127-28.)

The hearing panel also raised concerns about Respondent’s ongoing debt burden reflected on the December 2024 balance sheet. Respondent acknowledged that his debt “is a little bit high” due in considerable part to the financial assistance he is providing his sons who are being trained as pilots. (Tr-1 at 49.) He says he tracks his expenses and pays most bills automatically. He allocates some of his cash flow to fund his retirement, and then typically uses whatever is left over at the end of the month to pay down some additional debt. (Tr-1 at 57-58.)

Asked about the balance on his home equity line of credit (HELOC) and credit card debt, Respondent testified that the interest rate on the HELOC was low, and that he used a large portion of the loan to purchase another insurance agency and another portion to pay for family medical expenses. (Tr-1 at 59.) He explained that he excluded his wife’s credit card debt from the December 2024 version of his balance sheet after being told by Enforcement Counsel that it was not necessary to include it. (Tr-1 at 86-87.)

Respondent says that his financial goals are to eliminate all non-mortgage debt in the next five years and to pay off his house in the next eight to ten years. (Tr-1 at 62.) He says he enjoys working and does not yet have a retirement date, and that he will continue to grow his retirement funds. (Tr-1 at 62.) Asked what he would do were he to encounter a serious financial setback involving a significant unexpected expense, Respondent testified that he had some liquid assets and would reach into retirement funds if necessary, or he would ask family members for assistance. (Tr-2 at 11-12.)

Respondent believes that he has demonstrated financial stability through his purchase of a home and two vehicles and having put himself through college debt-free. He also points to his several financial accounts (brokerage, checking, savings, business) and the fact that he maintains his own business and has been with the same firm for 27 years. He says he uses a monthly budgeting spreadsheet, pays his bills when due, and supports family members, including assisting with his sons’ flight school. He says he does his best to “maintain proper insurance coverage for everything that’s needed,” and that he pays his taxes on time. (Tr-3 at 6-7.)

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Enforcement Counsel, who supports granting the Petition, directed the hearing panel to the net worth and investment assets listed on Respondent's December 2024 balance sheet as evidence that Respondent "is doing just fine" and "not at imminent risk of another bankruptcy." (Tr-1 at 24.)

C. Tax Reporting

The hearing panel also had questions about the reporting of income related to Respondent's S Corporation on his 2022 and 2023 personal tax returns.¹ Respondent set up his insurance agency as an S Corporation in 2004 and since then has relied on a Certified Public Accountant (CPA) to prepare and file tax returns for him and the business entity, recognizing that he (Respondent) is ultimately responsible for the filings and all taxes owed. (Tr-1 at 78, 84; Tr-2 at 21-20.)

Respondent's CPA, who appeared by video on the second hearing day, testified that he had reviewed Respondent's federal and state tax returns and believed they were accurate. (Tr-2 at 28.) He explained the reporting of business income on Respondent's personal tax returns (Tr-2 at 29-30), and why the amounts reported as wages were reasonable. (Tr-2 at 36-37.) Respondent offered similar testimony on this second topic. (Tr-3 at 11-12.)

Respondent's testimony about his 2024 tax return filing was muddy. On the first day of the hearing, he said that he had filed his 2024 tax returns. (Tr-1 at 78.) On the second day, Respondent said that he *thought* he had instead filed for an extension and then testified that he did not know one way or the other. (Tr-2 at 15.) Respondent's CPA said that he (the CPA) prepared hundreds of filings and was unsure whether Respondent's 2024 tax return had been filed or was on extension. (Tr-2 at 15.) The Commission has concerns about Respondent's clarity on this point given the hearing occurred soon after the tax filing season.

III. ANALYSIS OF RESPONDENT'S PETITION

The *Fitness Standards* establishes parity between applicants and current CFP® professionals by applying the *Sanction Guidelines* uniformly to both. In resolving a petition for fitness determination, the Commission evaluates the applicant's conduct against the sanction guideline for the relevant conduct in the *Sanction Guidelines*, considering the aggravating and mitigating factors and policy notes, to determine what the sanction would be if the candidate were a CFP® professional, and then issues the analogous fitness determination.

¹ Shareholders of S Corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates. The instructions to the Form 1120-S, U.S. Income Tax Return for an S Corporation, state "Distributions and other payments by an S corporation to a corporate officer must be treated as wages to the extent the amounts are reasonable compensation for services rendered to the corporation." See www.irs.gov/businesses/small-business-self-employed

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In determining an appropriate sanction, it is the Commission's general practice to apply the *Sanction Guidelines* in place at the time of the conduct at issue. Respondent filed for bankruptcy in 2008, at which time CFP Board had not yet published its first *Sanction Guidelines*. All of the *Sanction Guidelines* in place through June 2024, however, list a public censure as the baseline sanction for a single bankruptcy.² And anonymous Case Histories³ that pre-date the *Sanction Guidelines* similarly indicate that a public censure (or public letter of admonition) is an appropriate baseline sanction in cases like this involving a bankruptcy.⁴

There are both aggravating and mitigating factors to be considered as well. The Commissions finds that Respondent's conduct is mitigated by the fact that he filed for bankruptcy 16 years before applying for CFP® certification, which represents a significant passage of time.

The Commission finds the following factors to be aggravating:

1. Respondent's bankruptcy arose from his risky financial decision to invest in an illiquid and speculative real estate venture with little to no apparent due diligence.
2. Respondent at times displayed a lack of care and attention to the information he provided CFP Board in support of his Petition—for example, initially submitting cash flow statements containing material inaccuracies and irreconcilable numbers, and giving inconsistent testimony about whether he had recently filed his 2024 tax returns.

IV. COMMISSION'S FITNESS DETERMINATION

Having carefully considered the evidence in this case and the balance of mitigating and aggravating factors, the Commission finds no reason to depart from the baseline sanction of a Public Censure that would apply to Respondent's conduct if he were a CFP® professional.

Under the *Fitness Standards*, the analogous fitness determination to a Public Censure is to Grant the petition with a Public Notice, a public sanction under Article 11 of the *Procedural Rules*.

The Commission therefore finds that Respondent has satisfied the *Fitness Standards* for CFP® certification and **GRANTS** his Petition with a **Public Notice** that will be published in accordance with Article 17.7 of the *Procedural Rules*.

² Until CFP Board's July 1, 2024 *Sanctions Guidelines* recommending a baseline sanction of a suspension for one year and one day, each version of its *Sanction Guidelines* identified a public censure as the recommended baseline sanction. The *Sanctions Guidelines* are available here: <https://www.cfp.net/ethics/enforcement/sanction-guidelines>.

³ Case Histories (referred to as "CHs" or "ACHs") are available on CFP Board's website at <https://www.cfp.net/ethics/enforcement/case-history>.

⁴ See, e.g., 26401 (2011, Public Censure where CFP® professional filed for bankruptcy one year before application); 27043 (same); 26978 (same); but see 26658 (2011, petition for fitness denied with right to reapply where candidate file for bankruptcy one year before application); 26390 (same); 26317 (same); 27067 (2011, private censure where CFP® professional filed for bankruptcy one year before renewal); 26994 (same).

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SO ORDERED

CFP Board's Disciplinary and Ethics Commission
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