CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 30894

This is a summary of a Settlement Agreement entered into at the June 2018 hearings of the Disciplinary and Ethics Commission ("the Commission") of Certified Financial Planner Board of Standards, Inc. ("CFP Board"). The conduct at issue in this case occurred after January 1, 2009. The Rules in effect at that time under the *Rules of Conduct* were Rules 1.1 through 6.5.

I. Issues Presented

Whether a CFP® professional ("Respondent") violated CFP Board's *Standards of Professional Conduct* when she signed three customer names on documents and submitted the documents to the customers' annuity carrier.

II. Findings of Fact

Respondent obtained her CFP® certification on in November 1993, and has maintained her certification since that date.

In May 2016, Respondent's firm, ABC, terminated her for the following: "Discharged for use of non-genuine customer signatures on change of dealer authorization forms in connection with correcting a recordkeeping mismatch at a product sponsor. Review of activity indicated no attempt to defraud these customers."

In June 2016, the Financial Industry Regulatory Authority ("FINRA") began an investigation of Respondent's termination from ABC. In August 2016, FINRA issued a Cautionary Action Letter to Respondent. FINRA determined that in or about April 2016, Respondent signed three ABC customers' names on documents and then submitted the documents to their annuity carrier for processing. FINRA also found that Respondent violated the following FINRA Rules: (a) FINRA Rule 2010, Conduct Inconsistent with Just and Equitable Principles of Trade; and (b) Books, Record and Reports, FINRA Rule 451 l (a).

Respondent contended that in November 2015, another ABC registered representative resigned and ABC reassigned a number of that representative's client accounts to her. At that same time, Respondent upgraded the technology she was using for servicing her clients. For example, she purchased subscriptions to XX and YY. When ABC reassigned the accounts to Respondent, the associated data for these accounts began populating into the XX and YY systems. The process did not go smoothly. Respondent did not have access to certain information, such as how these clients' accounts were invested, and the historical performance of the accounts.

According to Respondent, three of the reassigned clients held a variable annuity issued by Insurance Co. X ("Insurance"). When Respondent attempted to log into these clients' accounts at Insurance, she discovered that she had not yet been listed as the agent of record with the sponsor company and she could not access their full account information. ABC had not notified Insurance that these accounts had been reassigned to Respondent. Rather than notify ABC and ask them to correct the oversight, Respondent submitted a change of agent of record form ("form") directly to Insurance, directing them to reassign the three clients' respective annuity accounts from the previous representative to herself. In so doing, Respondent signed her clients' names on their behalf in the "shareholder signature" block on the form.

According to Respondent, ABC became aware that she signed client signatures on forms when Respondent notified ABC that she had written on the top of a form "Change of Rep" and completed the clients' names, addresses and signed their signatures. Respondent admitted that she did not contact the clients for their permission to sign their names.

III. Ground for Discipline

First Ground for Discipline

Pursuant to Article 3(a) of the *Disciplinary Rules,* there are grounds to discipline Respondent for acts or omissions that violate Rule 4.3 of the *Rules of Conduct*, which provides that a certificant shall comply with applicable regulatory requirements governing professional services provided to the client.

Respondent, a certificant, failed to comply with FINRA Rules 2010 and 4511(a) when she signed three SAI customers' names on documents and then submitted the documents to their annuity carrier for processing. Thus, Respondent violated *Rules of Conduct* Rule 4.3.

Second Ground for Discipline

Pursuant to Article 3(a) of the *Disciplinary Rules,* there are grounds to discipline Respondent for acts or omissions that violate Rule 5.1 of the *Rules of Conduct*, which provides that a certificant who is an employee/agent shall perform professional services with dedication to the lawful objectives of the employer/principal and in accordance with CFP Board *Code of Ethics*.

Respondent, a certificant, failed to perform professional services with dedication to the lawful objectives of the employer/principal and in accordance with CFP Board's *Code of Ethics* when she used non-genuine customer signatures on change of dealer authorization forms. As a result, Respondent's firm terminated her for this conduct. Thus, Respondent violated *Rules of Conduct* Rule 5.1.

IV. Discipline Imposed

The Commission and Respondent entered into a Settlement Agreement in which Respondent consented to the Findings of Fact and Grounds for Discipline. Pursuant to the terms of the Settlement Agreement, the Commission issued to Respondent a Public Letter of Admonition pursuant to Article 4.2 of the *Disciplinary Rules*.

In coming to its decision to enter into the Settlement Agreement, the Commission considered, in aggravation, the fact that three clients were involved. In mitigation, the Commission considered the following factors:

- Respondent took responsibility for her actions;
- Respondent was remorseful;
- Respondent did not have any direct financial gain;
- There was no client harm;
- The client’s signature was not necessary for the form;
- This was a one-time occurrence.

The Commission also consulted two *Anonymous Case Histories* (“*ACH*”). First, the Commission consulted *ACH* 28497, where the respondent used a client’s authentic signature from an IRA agreement to forge another form. In that case, the Commission issued the respondent a public letter of admonition. Second, the Commission consulted

ACH 27004, where a respondent violated FINRA's predecessor (the National Association of Securities Dealer) rules by signing a client's initials to a switch letter. In that case, the Commission issued that respondent a public letter of admonition.