

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 17604

This is a summary of a decision issued following the July 2008 hearings of the Disciplinary and Ethics Commission (“Commission”) of Certified Financial Planner Board of Standards, Inc. (“CFP Board”). The conduct at issue in this case occurred prior to January 1, 2009. The Rules in effect at that time under the *Code of Ethics and Professional Responsibility* (“Code of Ethics”) were Rules 101 through 705.

I. Issue Presented

Whether a CFP® certificant (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he did not respond to a Settlement Offer issued to him by CFP Board.

II. Findings of Fact Relevant to the Commission’s Decision

CFP Board alleged the following facts in its Complaint:

1. Between January 1999 and June 2001, Respondent sold securities in the form of promissory notes to investors in a state (“State”);
2. Respondent was not registered in the State as a securities dealer, agent, investment advisor, or investment advisor representative;
3. Respondent solicited customers through advertisements. The advertisements did not disclose that he was not registered in the State;
4. The promissory notes were not registered in the State by qualification, notification or coordination, and the State had not granted a permit for their sale in the State;
5. As a result of his actions, Respondent was barred by the Financial Industry Regulatory Services Authority (“FINRA”, f/k/a National Association of Securities Dealers or NASD) and received a Cease and Desist Order from the State securities board.

In its January 2008 Complaint, based on the above facts, CFP Board alleged that Respondent violated *Code of Ethics* Rules 101(a), 102, 201, 401(a), 401(b), 606(a) and 607.

In January 2008, Respondent made a Settlement Offer to CFP Board. In his Settlement Offer, Respondent agreed to the allegations made in CFP Board’s Complaint and proposed a one-year suspension as a sanction. In April 2008, CFP Board issued a Counter-Offer to Respondent. CFP Board’s Counter-Offer alleged that Respondent violated Rules 101(a), 102, 201, 401(a), 401(b), 606(a), 607 and proposed revocation of Respondent’s right to use the CFP® marks.

In April 2008, Respondent sent a letter to CFP Board informing CFP Board that he was tendering his resignation as a Certified Financial Planner, effective immediately, in view of the “mass resignations” at CFP Board. Respondent did not return a signed Settlement Offer to CFP Board by the required deadline and the Counter-Offer was thus deemed rejected pursuant to Article 7.3 of CFP Board’s *Disciplinary Rules and Procedures* (“Disciplinary Rules”).


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III. Commission's Analysis and Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules* provides grounds for discipline for a violation of CFP Board's *Code of Ethics*. CFP Board alleged Article 3(a) grounds for discipline because Respondent violated the above *Code of Ethics* rules. Article 3(f) of the *Disciplinary Rules* provides grounds for discipline for failure to respond to a request by the Commission, without good cause shown, or obstruction of CFP Board staff in the performance of their duties. CFP Board alleged Article 3(f) grounds for discipline because Respondent repeatedly failed to respond to requests for information by CFP Board.

Article 7.4 of the *Disciplinary Rules* provides that allegations from CFP Board's Complaint shall be deemed admitted if a CFP Board designee fails to file an Answer within 20 calendar days from the date of service of the Complaint. The Commission determined that Respondent failed to file an Answer to the Complaint within the required time period. As a result, the Commission found Respondent to be in default and deemed the allegations set forth in the Complaint as admitted.

The Commission issued an Order of Revocation pursuant to Article 7.4 of the *Disciplinary Rules*, revoking Respondent's right to use the CFP[®], CERTIFIED FINANCIAL PLANNER[™] and  certification marks.

The Commission considered no aggravating or mitigating factors in making its Decision.