

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 19399

This is a summary of a decision issued following the March 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 solicited financial professionals through an e-mail that contained unprofessional language.

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

Respondent founded a company (“Company”) to assist financial professionals to enhance their technical competency and to expand their client base. In August 2006, CFP Board received a forwarded e-mail from the Company. The e-mail solicited advisors and other financial professionals with the following lines:

1. “What to say to a qualified prospect so that he dumps his other advisor like rotten goods”;
2. “Drip marketing that acts like acid to dissolve the relationship with their current advisor”;
3. “Stop talking to poor people. Find the wealthy retirees and learn to make them your clients”; and
4. “It’s so easy to take business from other advisors when you know the few secrets of competitive marketing.”

In communications with CFP Board, Respondent acknowledged that he is the founder and president of the Company. He stated that as head of the Company, he accepted responsibility for all written communications, including the e-mail, but that he did not compose or review the e-mail. Respondent informed CFP Board that he instituted in-house review procedures to ensure the incident would not be repeated. Respondent was scheduled to appear telephonically at his hearing but did not appear at his hearing.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

- A. *Rule 201 – A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.*

The Commission found that Respondent failed to exercise reasonable and prudent professional judgment in providing professional services because he solicited financial professionals through an e-mail message that he admitted was unprofessional and that he had not previously reviewed. Thus, Respondent violated Rule 201.

- B. *Rule 602 – A CFP Board designee shall show respect for other financial planning professionals, and related occupational groups, by engaging in fair and honorable competitive practices.*

The Commission found that Respondent failed to show respect for other financial planning professionals because he solicited them through an e-mail communication that the Commission determined: 1) showed a lack of respect for other financial professionals; 2) contained statements that demean other financial professionals; and 3) did not reflect fair and honorable competitive practices. Thus, Respondent violated Rule 602.

- C. *Rule 607 – A CFP Board designee shall not engage in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee, upon the marks, or upon the profession.*

The Commission found that Respondent engaged in conduct that reflects adversely on his integrity or fitness and upon the marks when he: 1) sent an unprofessional e-mail to other financial professionals; 2) showed a lack of respect for other financial professionals; and 3) did not appear at his scheduled hearing. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("Disciplinary Rules") provides grounds for discipline for a violation of the *Code of Ethics*. The Commission found Article 3(a) grounds for discipline because Respondent violated the above *Code of Ethics* rules. The Commission also found grounds for discipline under Article 3(f), which provides grounds for discipline for failure to respond to a request by CFP Board, without good cause shown.

The Commission ordered permanent revocation of Respondent's right to use the CFP[®], CERTIFIED FINANCIAL PLANNER[™] and  certification marks pursuant to Article 4.4 of the *Disciplinary Rules*.

The Commission considered as a mitigating factor that Respondent admitted to the violations alleged by CFP Board. The Commission considered the following aggravating factors:

1. This matter was Respondent's third matter to come before CFP Board;
2. Respondent suggested relinquishment of his right to use the marks as a last minute solution to the hearing process;
3. By 2007, the Company had declared bankruptcy, leaving many clients without recourse; shortly thereafter, Respondent urged these same clients to become involved in another of his companies, of his which offered the same services;
4. Respondent challenged CFP Board's authority over its marks and threatened a lawsuit against CFP Board if it pursued the allegations against him; and
5. Respondent failed to appear at his hearing.