

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 21530

This is a summary of a decision issued following the November 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 advised and assisted his clients in falsely reporting their federal income tax liabilities.

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

In 2007, the United States Department of Justice (“Justice”) filed a Complaint for Permanent Injunction and Other Relief (“Justice Complaint”) against Respondent and others. According to the Justice Complaint, Respondent was involved in a tax fraud program in which he:

1. Advised and assisted his clients in purchasing sham business insurance and/or transferring monies to sham self-directed IRAs as part of a plan to enable clients to reduce falsely their reported federal income tax liabilities; and
2. Returned monies invested in business insurance or IRAs to clients through a sham loan, a foreign credit card, and/or a fake scholarship program.

In 2008, Justice issued a Stipulated Final Judgment of Permanent Injunction against Respondent enjoining him from engaging in activity in violation of Internal Revenue Code §6700 and §6701.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

- A. *Rule 102 – In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement to a client.*

The Commission found that Respondent advised and assisted clients in purchasing sham investment products designed to enable the clients to reduce falsely their reported federal income tax liabilities. The Commission determined based on the above conduct that Respondent engaged in tax fraud. Thus, Respondent violated Rule 102.

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

The Commission found that Respondent engaged in fraudulent conduct by advising and assisting his clients in falsely reporting their federal income tax liabilities. The Commission found that by engaging in fraudulent conduct, Respondent failed to exercise reasonable and prudent professional judgment in providing professional services. Thus, Respondent violated Rule 201.

C. Rule 606(a) – In all professional activities a CFP Board designee shall perform services in accordance with applicable laws, rules and regulations of governmental agencies and other applicable authorities.

The Commission found that Respondent advised and assisted clients in purchasing sham investment products designed to enable the clients to reduce falsely their reported federal income tax liabilities and, thereby, to commit tax fraud. The Commission found that by doing so, Respondent did not perform services in accordance with applicable laws, rules and regulations of governmental agencies. Thus, Respondent violated Rule 606(a).

D. Rule 606(b) – In all professional activities a CFP Board designee shall perform services in accordance with applicable rules, regulations and other established policies of CFP Board.

The Commission found that by engaging in the fraudulent conduct described above and violating the *Code of Ethics* provisions listed herein, Respondent failed to perform services in accordance with CFP Board rules, regulations and policies. Thus, Respondent violated Rule 606(b).

E. 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 by engaging in the fraudulent conduct described above, Respondent engaged in conduct which reflects adversely on his integrity or fitness as a CFP Board designee, upon the marks and upon the profession. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* provides grounds for discipline for any act or omission which violates the provisions of the *Code of Ethics*. The Commission found Article 3(a) grounds for discipline because Respondent violated Rules 102, 201, 606(a), 606(b) and 607 of the *Code of Ethics*.

The Commission and Respondent entered into a Settlement Agreement wherein Respondent consented to the above findings of fact and violations. Pursuant to the Settlement Agreement, the Commission issued to Respondent a Public Letter of Admonition.

The Commission considered no mitigating or aggravating factors.