

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES

NUMBER 21544

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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. Issues Presented

Whether a CFP® certificant (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when she impersonated a client in order to effect a transfer of accounts from one Broker-Dealer to another.

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

In a Settlement Agreement entered into with the Commission, Respondent acknowledged the facts presented below:

In 2006, Respondent met with a client who agreed to transfer her account from her current Broker-Dealer to Respondent’s Broker-Dealer. During the meeting, the client completed paperwork to transfer her account but did not have her account number. Respondent contacted the client’s current Broker-Dealer to provide the account number for the transfer and was advised that the firm could only take information regarding the account from a customer. Later that day, Respondent again contacted the client’s current Broker-Dealer and impersonated the client over the telephone, without the client’s knowledge or consent, to provide the former Broker-Dealer with the account number.

Respondent’s actions resulted in: 1) his termination from his employer; 2) a National Association of Securities Dealers (“NASD”) Suspension and Fine; and 3) a Censure from a state securities commission. During the course of CFP Board’s investigation, Respondent failed to respond to a CFP Board request for information.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

Respondent acknowledged his violation of the following rules in his Settlement Agreement with the Commission:

- 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, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity.*

ACH 21544

- 1 -

- B. *Rule 201 – A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.*
- C. *Rule 202 – A financial planning practitioner shall act in the interest of the client.*
- D. *Rule 406 – A CFP Board designee who is an employee shall perform professional services with dedication to the lawful objectives of the employer and in accordance with this Code of Ethics.*
- E. *Rule 501(a) – A CFP Board designee shall not reveal – or use for his or her own benefit – without the client’s consent, any personally identifiable information relating to the client relationship or the affairs of the client, except and to the extent disclosure or use is reasonable necessary to establish an advisory or brokerage account, to effect a transaction for the client, or as otherwise impliedly authorized in order to carry out the client engagement.*
- F. *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.*
- G. *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.*

#### IV. Discipline Imposed

Respondent submitted an Offer of Settlement to the Commission. The Commission proposed a Counter-Offer to the Respondent. The Commission and Respondent reached a Settlement Agreement, wherein Respondent acknowledged the above facts and rule violations. According to the Settlement Agreement, Respondent consented to Article 3(d) grounds for discipline under CFP Board’s *Disciplinary Rules and Procedures*. Article 3(d) provides grounds for discipline for any act which is the proper grounds for a professional suspension.

The Commission suspended for a period of one year Respondent’s right use the CFP<sup>®</sup>, CERTIFIED FINANCIAL PLANNER<sup>™</sup> and  certification marks, in accordance with the Settlement Agreement.