

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES

NUMBER 21749

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 did not report his involvement in a Financial Industry Regulatory Authority (“FINRA”, f/k/a National Association of Securities Dealers or “NASD”) arbitration to CFP Board, and did not respond to CFP Board’s requests for information and Complaint.

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

In October 2007, CFP Board discovered during a routine background check that Respondent was involved in a pending arbitration with FINRA. CFP Board began an investigation and mailed an Agreement to Keep CFP Board Informed and a Notice of Investigation (“NOI”) to Respondent. In November 2007, Respondent requested and was granted an extension for filing his response to the NOI. Respondent did not respond to the NOI by the extended deadline. In December 2007, CFP Board mailed a second NOI to Respondent. Respondent did not respond. In January 2008, CFP Board sent a Complaint to Respondent. Respondent did not submit an Answer to the Complaint.

In January 2008, FINRA arbitrators concluded the matter involving Respondent and awarded a sum to the claimant. Respondent did not report FINRA’s decision or the award to CFP Board.

Because Respondent did not file an Answer to CFP Board’s Complaint, the allegations in the Complaint were deemed admitted pursuant to Article 7.4 of CFP Board’s *Disciplinary Rules and Procedures* (“Disciplinary Rules”).

III. Commission’s Analysis and Conclusions Regarding Rule Violations

- A. *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 which reflects adversely on his fitness to continue certification with CFP Board, upon the certification marks, and upon the profession because he: 1) failed to disclose the FINRA arbitration and award; and 2) failed to respond to CFP Board’s requests for information. Thus, Respondent violated Rule 607.

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IV. Discipline Imposed

Article 3(a) of CFP Board's *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 *Code of Ethics* Rule 607. Article 3(f) of the *Disciplinary Rules* provides grounds for discipline for failure to respond to a request by CFP Board, without good cause shown. The Commission found Article 3(f) grounds for discipline because Respondent failed to respond to CFP Board's NOI and Complaint.

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 no mitigating factors.

The Commission considered the following aggravating factors:

1. Respondent did not respond to any communication from CFP Board;
2. The FINRA arbitration settlement amount that Respondent paid was significant;
3. Respondent was not cooperative with CFP Board, which the Commission viewed as indicating an indifference to his status and responsibilities as a CFP[®] certificant.