CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 21848

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* by failing to inform a husband and wife who were his investment advisory clients ("Clients", or individually, "Husband" or "Wife") of an impending lapse of life insurance policies he had previously sold to them while acting as their insurance broker.

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

CFP Board alleged the following facts in its Complaint:

1. In April 1992, while working as an investment advisor and insurance broker, Respondent recommended and sold two universal life insurance policies ("Policies", or individually, "Policy") to the Clients, who were retired;
2. In March 1994, the Policies' death benefits were increased, making Respondent's initial projections regarding length of coverage and premium payments, which he made at the time of sale, no longer applicable;
3. In September 2004, Respondent and the Clients agreed to a fee-based investment advisory agreement;
4. In 2005, Respondent stopped selling insurance and referred the Clients to a new servicing agent for their Policies;
5. In 2006, the Clients received an annual report from the life insurance company informing them that the Husband's Policy would expire in 2009 because there was no longer sufficient cash value to pay the annual premium. The Clients met with Respondent, who said he would discuss the matter with the new servicing agent;
6. The Husband requested changes to his Policy. The request was denied by the life insurance company;
7. According to the Clients, they lost most of the $41,000 they had invested in the Policies; and
8. In a 2008 letter to CFP Board, the Clients claimed Respondent did not fully explain the terms of the Policies, failed to monitor the Policies and failed to inform them of the impending lapse of the Husband's Policy.

III. Commission's Analysis and Conclusions Regarding Rule Violations

CFP Board alleged that Respondent violated Rules 701 and 703 of the *Code of Ethics*, as follows:

1. Respondent violated Rule 701 because he had a continuing obligation to the Clients, given his ongoing relationship with them, to inform them of the potential lapse of the Husband's Policy; and
2. Respondent violated Rule 703 because he failed to make and/or implement recommendations that were suitable for the Clients, an elderly retired couple on a fixed income, when Respondent sold them universal life insurance policies whose monthly premiums were subject to increase.

CFP Board alleged grounds for discipline under Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*") for violation of the above Rules.

The Commission determined that CFP Board did not prove by a preponderance of the evidence that Respondent violated the above rules. Thus, the Commission ultimately found that there were no violations of the *Code of Ethics* and no grounds for discipline under the *Disciplinary Rules*.

IV. Discipline Imposed

The Commission dismissed the matter as without merit.

The Commission considered no mitigating or aggravating factors.