

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 21865

This is a summary of a decision issued following the July 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 sent misleading correspondence to the clients of a competing firm in an attempt to solicit them.

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

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

In 2007, a grievance was filed with CFP Board against Respondent by a representative of a financial planning firm (“Grievant”). The Grievant claimed that Respondent contacted the clients of the Grievant’s firm and stated that the administration of the clients’ 401(k) plans had been changed to Respondent’s firm. Respondent included, in his correspondence with the clients, forms for them to sign which would make the Respondent the representative of their 401(k) plans.

According to a statement from Respondent to CFP Board, Respondent acknowledged he sent a letter to eight prospective clients suggesting their 401 (k) representative had moved to a different company. Respondent stated that he mistakenly thought there was no local representation for the 401(k) plans. According to Respondent, when he realized his error, he did not follow-up with the prospective clients to whom he sent a letter.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

Respondent consented to violations of the following Rules in his Settlement Agreement with the Commission:

- A. *Rule 602 – A CFP Board designee will show respect for other financial planning professionals, by engaging in fair and honorable competitive practices*
- B. *Rule 606(b) – A CFP Board designee shall perform services in accordance with applicable laws, regulations and other established policies of CFP Board*

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.*

IV. Discipline Imposed

Respondent submitted an Offer of Settlement to the Commission, wherein he acknowledged the above facts and rule violations. According to the Settlement Agreement, Respondent consented to Article 3(a) grounds for discipline under CFP Board's *Disciplinary Rules and Procedures*. The Commission issued a Private Censure to Respondent, in accordance with the Settlement Agreement.

The Commission considered the following mitigating factors in making its Decision:

1. No harm was done to the Grievant;
2. Respondent recognized no gain from his actions; and
3. Respondent did not intend to mislead the individuals to whom he mailed his letter.

The Commission considered no aggravating factors.