

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22005

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 candidate for CFP® certification (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he did not disclose his involvement in a misdemeanor theft on the Declaration Section of his Initial Certification Application (“Application”).

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

In January 2008, while conducting a routine background check, CFP Board discovered Respondent’s involvement in a 1996 state criminal misdemeanor theft.

In 1996, Respondent, who was then a college student, was arrested at a neighboring college for breaking the window of an automobile and stealing a case of compact discs. The arresting officer issued Respondent a citation for theft, and a citation for criminal damage to property. In 1997, Respondent pleaded guilty to misdemeanor theft. He was fined \$80 and sentenced to one year of probation, which he completed in 1998.

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 integrity or fitness as a CFP Board candidate, upon the marks, and upon the profession when he broke into an automobile and removed property that did not belong to him, which resulted in a misdemeanor theft conviction. Thus, Respondent violated Rule 607.

- B. *Rule 612 – A CFP Board designee shall comply with all applicable renewal requirements established by CFP Board including, but not limited to, payment of the biennial CFP Board designee fee as well as signing and returning the Terms and Conditions of Certification in connection with the certification renewal process.*

The Commission noted that Rule 612 not only requires certificants to meet renewal requirements, but also requires candidates to meet initial certification requirements. The certification requirements include a truthful response on the Application regarding being a respondent or a defendant in a criminal proceeding. The Commission found that Respondent failed to comply with all applicable certification requirements because he failed to disclose the criminal misdemeanor theft conviction on his Application. Thus, Respondent violated Rule 612.

IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a), 3(c) and 3(g) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*"). Article 3(a) provides grounds for discipline for a violation of the *Code of Ethics*. The Commission found Article 3(a) grounds for discipline for the above *Code of Ethics* violations. Article 3(c) provides grounds for discipline for a violation of state criminal law. The Commission found Article 3(c) grounds for discipline because Respondent committed a crime in violation of state law. Article 3(g) provides grounds for discipline for making a false or misleading statement to CFP Board. The Commission found Article 3(g) grounds for discipline because Respondent made a false statement on his Application by indicating that he had not been a respondent or defendant in a criminal proceeding when he had, in fact, been a defendant in a misdemeanor theft proceeding.

Pursuant to Article 4 of the *Disciplinary Rules*, the Commission issued a Private Censure to Respondent, and suspended his certification for a period of one year from the date of his Application. In addition, the Commission ordered Respondent to complete six hours of continuing education courses in ethics.

The Commission considered the following mitigating factors:

1. Respondent's act was a youthful transgression, because he was in college and was only 20 years old at the time of the incident; and
2. Respondent appeared to be remorseful in his testimony.

The Commission considered as an aggravating factor Respondent's testimony that he researched the records status of his conviction and, finding no records, did not believe he needed to report it to CFP Board.