

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22054

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: 1) was convicted of driving under the influence and; 2) was asked to resign from a financial services firm (“Firm”) after he photocopied a client’s (“Client”) signature onto a Firm document.

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

In 2008, Respondent disclosed his involvement in two matters on his Initial Certification Application. CFP Board began an investigation and issued a Complaint against Respondent. In a Settlement Agreement entered into with the Commission, Respondent consented to the facts presented below:

1. After consuming alcohol while entertaining clients, Respondent fell asleep while driving and caused a minor accident. Respondent was arrested as a result. In 1983, Respondent pleaded guilty to Driving Under the Influence.
2. In 1999, Respondent was hired by the Firm. In 2002, Respondent was transferred from the Firm to an affiliated bank (“Bank”). In 2003, the Client signed a tax-exempt investment policy statement (“IPS”) related to a short term investment product. Shortly thereafter, the Client asked the Respondent to switch to a taxable IPS instead. Respondent then photocopied the Client’s signature from the non-taxable IPS onto the taxable IPS, instead of obtaining the Client’s original signature. Respondent later forwarded the Client new forms to obtain an original signature and placed the new forms in the Client’s file. In 2003, Respondent’s employment with the Bank was terminated and Respondent was transferred back to the Firm. In 2004, Respondent was asked to resign from the Firm in reference to his handling of the Client’s documents while employed at the Bank, and Respondent resigned.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

Respondent acknowledged the following rule violations 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*

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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.

- B. Rule 606(a) – In all professional activities a CFP Board designee shall perform services in accordance applicable laws, rules, and regulations of governmental agencies and other applicable authorities.*
- C. Rule 606(b) – Failing to perform professional services in accordance with applicable rules, regulations and other established policies of CFP Board.*
- D. 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.*
- E. Rule 701 – A CFP Board designee shall provide services diligently.*

IV. Discipline Imposed

Respondent submitted an Offer of Settlement to the Commission. The Commission proposed a Counter-Offer to Respondent, and the Commission and Respondent reached a Settlement Agreement. According to the Settlement Agreement, Respondent consented to Article 3(a) grounds for discipline under CFP Board's *Disciplinary Rules and Procedures*. Article 3(a) provides grounds for discipline for violating a provision of the *Code of Ethics*.

The Commission issued a suspension of the Respondent's rights to use the CFP® marks for three months, in accordance with the Settlement Agreement.

The Commission considered the following mitigating factors:

1. Respondent accepted full responsibility for his actions;
2. Respondent was acting at the request of his client when Respondent photocopied the clients signature; and
3. Respondent made his employer aware of the violation within a day.

The Commission considered no aggravating factors.