

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.


ANONYMOUS CASE HISTORIES
NUMBER 22124

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 registrant (“Respondent”) provided sufficient evidence to warrant reinstatement of his CFP® certification following a period of suspension.

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

Respondent’s right to use the CFP®, CERTIFIED FINANCIAL PLANNER™ and  certification marks (“CFP® marks”) was suspended for one year and one day following CFP Board’s investigation into his involvement in: 1) a customer complaint in 2000; 2) four customer complaints in 2004; 3) a company internal review in 2004; 4) seven customer complaints in 2005; 5) a National Association of Securities Dealers (“NASD”) arbitration in 2005; 6) four customer complaints in 2006; 7) an NASD Discipline in 2006; and 8) a state bureau of securities action in 2006.

Respondent petitioned for reinstatement pursuant to Article 15 of CFP Board’s *Disciplinary Rules and Procedures* (“*Disciplinary Rules*”).

III. Commission’s Analysis and Conclusions Regarding Petition for Reinstatement

Under Article 15.2 of the *Disciplinary Rules*, a CFP Board designee petitioning for reinstatement has the burden of proving by clear and convincing evidence that he has been rehabilitated. According to CFP Board guidelines, clear and convincing evidence of rehabilitation may include:

1. Proof that Respondent maintained competence and learning in the area of financial planning during the suspension period;
2. Evidence that Respondent’s conduct since the issuance of the suspension order has been exemplary and beyond reproach;
3. Evidence that Respondent made restitution or settled all claims from persons injured or harmed by his misconduct, or a satisfactory explanation of his failure to do so; and
4. Documentary evidence of all business activities during the suspension period.

A CFP Board designee petitioning for reinstatement also has the burden to convince the Commission that he or she is fit to use the CFP® marks. In determining fitness, the Commission will consider information obtained during a hearing, including:

1. Whether Respondent has a proper understanding of the *Code of Ethics and Financial Planning Practice Standards* (“*Practice Standards*”) and is willing to conform to those standards;
2. Whether Respondent made changes generally and specifically with respect to the conduct found to be in violation of the *Code of Ethics and Practice Standards*;
3. Whether Respondent can be confidently recommended to the public as a CFP® certificant; and
4. How Respondent plans to use the CFP marks in his or her future business.

The Commission determined that Respondent demonstrated by clear and convincing evidence that he was rehabilitated, complied with all disciplinary orders and provisions of the *Disciplinary Rules*, and was fit to use the CFP® marks. Therefore, the Commission granted reinstatement of Respondent’s CFP® certification.

The Commission considered no mitigating or aggravating factors.