

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22166

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. Issues Presented

Whether a candidate for CFP® certification (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he: 1) signed clients’ names on documents that the clients did not authorize Respondent to sign; and 2) violated the corporate policy of his broker-dealer (“Broker-Dealer”) in doing so.

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

In March 2007, Respondent’s Broker-Dealer began an internal review of Respondent. The Broker-Dealer believed Respondent had been signing clients’ signatures on documents in violation of the Broker-Dealer’s corporate policy. The Broker-Dealer determined that Respondent signed documents on behalf of four of his clients. The Broker-Dealer obtained a signed affidavit from each client affirming that the client did not authorize Respondent to sign for him or her. The Broker-Dealer determined that no client was harmed and closed the review.

The Financial Industry Regulatory Authority (“FINRA”, f/k/a the National Association of Securities Dealers or NASD) began an investigation of the forgery allegations against Respondent during the Broker-Dealer’s review. As part of its investigation, FINRA issued a Cautionary Letter to Respondent in which Respondent admitted that he signed clients’ names on several documents and submitted them to the Broker-Dealer for processing.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

- 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 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.*

The Commission determined that Respondent identified documents used by the Broker-Dealer to process client information and requests as having been signed by the clients when the clients had not: 1) signed the documents; or 2) authorized the Respondent to sign the documents for them.

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The Commission concluded that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation or knowingly making a false or misleading statement to his clients in the course of professional activities. Thus, Respondent violated Rule 102.

B. Rule 201 – A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.

The Commission determined that Respondent, on his own admission, committed forgery and as a result, failed to exercise reasonable and prudent professional judgment. Thus, Respondent violated Rule 201.

C. Rule 406 – A CFP Board designee who is an employee shall perform professional services with dedication to the lawful objectives of the employer and in accordance with this Code of Ethics.

The Commission found that Respondent's actions subjected his employer, the Broker-Dealer, to regulatory risk and led to the FINRA investigation. The Commission determined that Respondent failed to perform services with dedication to the lawful objectives of his employer because he subjected his employer to a regulatory process that caused his employer financial harm and damage to its reputation. Thus, Respondent violated Rule 406.

D. Rule 606(b) – In all professional activities a CFP Board designee shall perform services in accordance with applicable rules, regulations and other established policies of CFP Board.

The Commission found that Respondent failed to perform services in accordance with CFP Board rules, regulations and policies because he violated *Code of Ethics* Rules 102, 201, 406, 607 and 701, as described herein. Thus, Respondent violated Rule 606(b).

E. 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 designee, upon the marks and upon the profession because he signed clients' signatures on their behalf, without their authorization, and in violation of the Broker-Dealer's company policy. Respondent's actions led to violations of *Code of Ethics* Rules 102, 201, 406, 606(b) and 701. Thus, Respondent violated Rule 607.

F. Rule 701 – A CFP Board designee shall provide services diligently.

The Commission found that Respondent failed to provide services diligently because he failed to inquire about company policy and failed to use common sense when he forged signatures on client documents. Thus, Respondent violated Rule 701.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*") provides grounds for discipline for any act or omission which violates the *Code of Ethics*. The Commission found Article 3(a) grounds for discipline based on the above rule violations. Pursuant to Article 4 of the *Disciplinary Rules*, the Commission issued an Order to Suspend Respondent's certification for four months. During the suspension period, the Commission required Respondent to complete five hours of continuing education courses in ethics. The Commission withheld public notification of the suspension, as allowed under Article 4.3 of the *Disciplinary Rules*.

The Commission considered the following mitigating factors:

1. Respondent self-disclosed and was cooperative;
2. Respondent admitted to the allegations alleged by CFP Board and FINRA;
3. Respondent was contrite; and
4. Respondent recognized the impact of his actions on clients, the Broker-Dealer and himself.

The Commission cited no aggravating factors other than poor judgment.