

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22191

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 was involved in a 2008 Financial Industry Regulatory Authority (“FINRA”) Arbitration concerning an employment dispute with his former employer (“Broker-Dealer”).

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

CFP Board alleged the following facts in its Complaint:

In 2008, Respondent disclosed on his Certification Renewal Application his involvement in a 2008 Financial Industry Regulatory Authority (“FINRA”) Arbitration concerning an employment dispute with his former Broker-Dealer employer about his establishing a registered investment advisory firm (“RIA”). The Broker-Dealer filed a lawsuit against Respondent and a Statement of Claim with FINRA. A Settlement Agreement and Release was signed by all parties requiring Respondent to: 1) pay a fee to the Broker-Dealer; 2) cease and desist from soliciting clients away from the Broker-Dealer; and 3) return all confidential client information to the Broker-Dealer.

III. Discipline Imposed

The Commission dismissed the case with a caution to Respondent to abide by non-compete clauses in employment agreements. The Commission also cautioned Respondent that establishing an RIA firm prior to leaving his Broker-Dealer employer may be a violation of the Broker-Dealer’s outside business activity rules.

The Commission considered as a mitigating factor that Respondent’s reason for establishing the RIA firm prior to leaving the Broker-Dealer was to continue to provide brokerage services to clients without interruption.

The Commission considered no aggravating factors.