

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22271

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 prove by clear and convincing evidence that his CFP[®] certification should be reinstated following a suspension of one year and one day.

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

Respondent’s right to use the CFP[®] marks was suspended for one year and one day following CFP Board’s investigation into Respondent’s involvement in a state securities division proceeding. 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 or her misconduct, or a satisfactory explanation of his or her 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 these standards; and

2. Whether Respondent has made changes to the conduct found to be in violation of the *Code of Ethics* and *Practice Standards*.

The Commission determined that Respondent failed to prove by clear and convincing evidence that he had been rehabilitated because he: 1) did not provide evidence that he maintained competence and learning in the area of personal financial planning during the suspension period; and 2) did not prove by clear and convincing evidence that he was fit to use the marks.

The Commission noted that Respondent admitted at the hearing that he had no intention of ever providing financial planning services. The Commission found that Respondent did not provide compelling testimony at the hearing to instill confidence in the hearing panel that Respondent has been rehabilitated and is fit to use the marks. Therefore, the Commission denied Respondent's Petition for Reinstatement.

The Commission considered no mitigating or aggravating factors.