CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22317

This is a summary of a decision issued following the November 2009 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: 1) multiple clients filed customer complaints and arbitrations against him; and 2) a state division of securities ("Division") issued an order of intent to revoke his state securities license.

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

Respondent disclosed in his May 2008 Initial Application for CFP® Certification his involvement in a 1990 misdemeanor criminal conviction and three Financial Industry Regulatory Authority ("FINRA") arbitrations. During its investigation, CFP Board discovered a state regulatory action, additional FINRA arbitrations, and four customer complaints. In a Settlement Agreement entered into with the Commission, Respondent consented to the facts presented below.

The FINRA arbitrations were filed against Respondent in August 2001, February 2002, April 2004, July 2005, and February 2009. The August 2001, February 2002, April 2004, and February 2009 arbitrations alleged unsuitable recommendations. The July 2005 arbitration alleged unauthorized trades. Three of the customer complaints were filed against Respondent in December 2006. The remaining customer complaint was filed in March 2007. All of the customer complaints alleged unsuitable recommendations and unauthorized trades.

In May 2007, the Division found Respondent in violation of state regulations based on allegations made in three of the arbitrations. The Division issued an order that suspended Respondent's securities license and stated that Respondent's securities license would be revoked in 30 days. Respondent withdrew his state securities license and the order was terminated.

III. Commission's Analysis and Conclusions Regarding Rule Violations

A. Rule 606(a) – In all professional activities a CFP Board designee shall perform services in accordance with applicable laws, rules and regulations of governmental agencies and other applicable authorities.

The Commission found that Respondent did not perform services in accordance with applicable laws, rules and regulations of governmental agencies and other applicable authorities because he made misrepresentations and unsuitable recommendations to clients, based on: 1) the finding that Respondent violated state regulations; and 2) evidence related to the customer complaints and arbitrations. Thus, Respondent violated Rule 606(a).

B. Rule 607 – A CFP Board designee shall not engage in conduct which reflects adversely on integrity or fitness as a CFP Board designee, upon the marks, or upon the profession.

The Commission found that Respondent's misrepresentations and unsuitable recommendations to clients reflected adversely on his integrity or fitness as a CFP Board designee, upon the CFP® marks, and upon the profession. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* provides grounds for discipline for any act or omission that violates the *Code of Ethics*. The Commission found grounds for discipline under Article 3(a) because Respondent violated *Code of Ethics* Rules 606(a) and 607.

The Commission and Respondent entered into a Settlement Agreement in which Respondent consented to the above facts and reasoning. Pursuant to the Settlement Agreement, the Commission issued a three-year suspension of Respondent's right to use the CFP® marks.

The Commission did not consider any mitigating or aggravating factors, but expressed concern about Respondent's pattern of unsuitable recommendations and lack of communication with his clients.