

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES

NUMBER 22437

This is a summary of a decision issued following the February 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. Issue Presented

Whether a CFP[®] certificant (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* (“Standards”) when he did not pay another CFP[®] certificant (“Grievant”) for services rendered.

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

In October 2003, Respondent contracted with a university to direct a CERTIFIED FINANCIAL PLANNER™ Certification Education Program. Respondent served as an independent contractor at the university.

In 2006, Respondent retained Grievant to instruct three courses between October 2006 and December 2007. Respondent and Grievant entered into written agreements regarding the first two courses. Under the written agreements, Respondent agreed to pay Grievant a \$2,000 instruction fee for each course. No written agreement existed for the third course. Respondent and Grievant agreed to operate under the terms of the two previous agreements for the third course.

Grievant taught the first two courses, and Respondent paid him the \$2,000 instruction fee for each course. Grievant taught the third course from October to December 2007. Respondent did not pay Grievant the \$2,000 instruction fee for the third course.

From January through June 2008, Grievant contacted Respondent multiple times to request payment for teaching the third course. Respondent assured Grievant in multiple e-mails that Grievant would be paid. On May 27, 2008, Respondent e-mailed Grievant in response to Grievant’s offer to accept installment payments, stating that, “Installments may be an alternative.”

On July 21, 2008, Grievant filed a grievance with CFP Board against Respondent. On July 23, 2008, CFP Board opened a case and began an investigation.

In a detailed, written statement to CFP Board dated September 9, 2008, Respondent acknowledged that he was liable for the \$2,000 payment. Respondent stated he did not have the funds to pay Grievant and cited personal and family financial obligations as the reasons for his failure to pay. Respondent also stated that there was never any intent not to pay Grievant and that he fully intended to pay Grievant.

ACH 22437

- 1 -

III. Commission's Analysis and Conclusions Regarding Rule Violations

- A. *Rule 602 – A CFP Board designee shall show respect for other financial planning professionals, and related occupational groups, by engaging in fair and honorable competitive practices.*

The Commission noted that Respondent made repeated promises over an extended period of time to pay Grievant, but did not pay Grievant, even after Grievant offered to accept installment payments from Respondent. The Commission found that because Respondent did not pay for services Grievant had rendered, Respondent failed to show respect for other financial planning professionals and failed to engage in fair and honorable practices. Thus, Respondent violated Rule 602 of the *Code of Ethics*.

- B. *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[®] certificant, upon the marks and upon the profession because he: 1) failed to pay Grievant after Grievant fulfilled the terms of the agreement; 2) continued to promise over an extended period of time to pay Grievant but did not pay Grievant; and 3) violated Rule 602 by failing to pay for services rendered by Grievant. Thus, Respondent violated Rule 607.

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 provisions of the *Code of Ethics*. The Commission found Article 3(a) grounds for discipline because Respondent violated Rules 602 and 607 of the *Code of Ethics*.

Respondent made an Offer of Settlement to the Commission wherein he agreed to accept a private censure. The Commission accepted the Offer of Settlement and issued a private censure to Respondent, noting that Respondent should have made an effort to pay something to Grievant.

The Commission considered the following mitigating factors:

1. Respondent's tax records showed a lack of income; and
2. Respondent completely acknowledged his debt to Grievant.

In aggravation, the Commission considered that, despite his assurances, Respondent made no payment to Grievant until December 2008.