

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22598

This is a summary of a decision issued following the July 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* (“Standards”) when he pleaded guilty to a Driving Under the Influence (“DUI”) charge in 2008, and did not notify CFP Board within 10 days of his criminal conviction.

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

In August 2008, Respondent submitted his Renewal Application for CFP® Certification (“Application”) in which he disclosed that earlier in 2008, he was arrested and charged with a DUI. In a Settlement Agreement entered into with the Commission, Respondent consented to the facts presented below.

In December 2008, Respondent pleaded guilty in a city court to the DUI charge, a Class 1 misdemeanor. The following penalties were imposed:

- 1) court fees totaling \$1,722.40;
- 2) a 24-hour jail term, which Respondent served in 2008;
- 3) a 30-day suspension in 2008 of driving privileges;
- 4) a 60-day driver’s license restriction in 2008, during which Respondent was permitted to drive for work purposes only;
- 5) a 1-year ignition interlock device that continued to be installed on Respondent’s vehicle at the time of the Commission hearing, which prevented the car from starting if Respondent was intoxicated;
- 6) 36 hours of classroom counseling for substance abuse that Respondent completed in 2009; and
- 7) a Traffic Survival School for individuals with excessive points on their driving record, which Respondent completed in 2008.

In addition, Respondent was convicted in December 2008, and did not inform CFP Board within 10 days of his criminal conviction, as required by Article 12.2 of CFP Board’s *Disciplinary Rules and Procedures* (“Disciplinary Rules”). In his response to a Notice of Investigation from CFP Board, Respondent explained that the failure to disclose the conviction was his oversight, due to difficult circumstances occurring at the time of his conviction. Respondent was transitioning to a new employer, with which he had a short and stressful term of employment. Respondent was hired by the employer in 2008 and terminated three months after hire. Respondent stated he had no intent to deceive CFP Board.

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III. Commission's Analysis and Conclusions Regarding Rule Violations

A. *Rule 607 Violation – Engaging 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 was convicted of DUI, a criminal misdemeanor, which reflects adversely on his integrity or fitness as a CFP Board designee. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a), 3(c) and 3(e) of CFP Board's *Disciplinary Rules*. Article 3(a) establishes grounds for discipline for a violation of CFP Board's *Code of Ethics*. Article 3(c) establishes grounds for discipline for a violation of any criminal law. Article 3(e) establishes grounds for discipline for any act or omission which violates the *Disciplinary Rules* or which violates an order of discipline.

The Commission finds grounds for discipline under Article 3(a) because Respondent violated Rule 607 of the *Code of Ethics*. The Commission found Article 3(c) grounds for discipline because Respondent was convicted of DUI, a criminal misdemeanor. The Commission found that by failing to notify CFP Board of his criminal conviction within 10 calendar days, Respondent violated Article 12.2, thus allowing for discipline pursuant to Article 3(e).

The Commission accepted an Offer of Settlement from Respondent, wherein the Respondent acknowledged the above facts and rule violations. The Commission issued a Private Censure to Respondent in accordance with the Settlement Agreement.

The Commission considered as a mitigating factor that Respondent had an otherwise clean record. The Commission did not consider any aggravating factors.