

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22602

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 removed a client’s file from a branch of his advisory firm (“Advisory Firm”) without the manager’s approval, resulting in his termination from the Advisory Firm and from his broker-dealer.

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

In a Settlement Agreement entered into with the Commission, Respondent consented to the facts presented below.

In 2004, Respondent’s broker-dealer and Advisory Firm terminated him for removing a client’s file from a branch office without the manager’s approval. A fellow advisor (“Advisor”) at the Advisory Firm had been terminated by the Advisory Firm’s owner (“Owner”). Prior to her termination, the Advisor filed certain documents in her client/investment file (“Advisor’s File”). After her termination, the Advisor requested that Respondent remove the Advisor’s File from the office and bring it to her. Respondent removed the Advisor’s File from the office without the knowledge or permission of the Owner. Upon discovering the missing Advisor’s File, the Owner terminated Respondent and requested that Respondent return the Advisor’s File.

According to Respondent, his reason for removing the Advisor’s File was to provide the Advisor access to her personal records. However, according to the Owner, the files at issue were client files that, as the broker of record, the Owner was required to retain for seven to ten years. According to a Separation Notice from the Advisory Firm that Respondent signed, Respondent was terminated for stealing client records.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

- A. *Rule 502 – A CFP Board designee shall maintain the same standards of confidentiality to employers as to clients.*

The Commission determined that by removing confidential client files without first obtaining the permission of the client or Respondent’s employer, Respondent violated the confidentiality agreement of his employer. Thus, Respondent violated Rule 502 of CFP Board’s *Code of Ethics*.

IV. Discipline Imposed

Respondent submitted an Offer of Settlement to the Commission. The Commission proposed a Counter-Offer, wherein the Respondent acknowledged the above facts and rule violation. Respondent accepted the Counter-Offer. The Commission issued a Private Censure to Respondent and directed Respondent to complete five hours of continuing education in Ethics, in addition to the two hours in Ethics required to maintain his certification.

The Commission considered as a mitigating factor that Respondent acted upon a reasonable request by a colleague to retrieve her personal files.

The Commission considered no aggravating factors.