

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22631

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: 1) pleaded guilty to shoplifting in 1988; and 2) entered into a Consent Order with a state (“State”) banking and insurance agency (“BI”) in 1998.

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

In 2008, Respondent disclosed to CFP Board his involvement in a criminal matter and a State regulatory action on his Initial Certification Application. In 1988, Respondent pleaded guilty in a State court to shoplifting, a violation of State criminal laws. The State court sentenced Respondent to 15 days in jail and fined him \$30. The jail sentence was suspended. According to Respondent, the incident was a childish prank that got out of hand.

In 1996, Respondent submitted an application for an insurance license to the BI and answered “No” to a question asking whether he had ever been convicted of a crime. In 1998, Respondent entered into a Consent Order with the BI and admitted to violations of state law for answering the question inaccurately. The BI Commissioner ordered Respondent to pay a \$500.00 fine and to cease and desist from the conduct that gave rise to the order. Later in 1998, the Department confirmed receipt of the fine required by the Consent Order.

Respondent stated he did not know how or when the BI discovered the criminal conviction for shop-lifting. According to Respondent, he was granted the insurance license, and sold insurance for 18 months before BI’s investigation began. Respondent was allowed to continue selling insurance during the BI’s investigation.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

A. *Rule 606(a) – Performing services in accordance with applicable laws, rules, and regulations of governmental agencies and other applicable authorities.*

According to the Commission, the Respondent’s entering into the 1998 Consent Order, wherein he admitted to violating State statutes, reflects a failure to perform services in accordance with applicable law, rules, and regulations of governmental agencies and other applicable authorities. Thus, Respondent violated Rule 606(a).

B. Rule 607 – Engaging in conduct which reflects adversely on integrity or fitness as a CFP Board designee, upon the marks, or upon the profession

Respondent was investigated and disciplined by the BI for making an incorrect statement on his application for an insurance license. According to the Commission, receiving disciplinary actions from State agencies reflects adversely on one's integrity or fitness as a CFP Board designee, upon the marks and upon the profession. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*") establishes grounds for discipline for any violation of CFP Board's *Code of Ethics*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rules 606(a) and 607 of the *Code of Ethics*.

The Commission presented a Counter-Offer to the proposed Offer of Settlement from the Respondent. The Respondent accepted the Counter-Offer, wherein he acknowledged the above findings of fact and rule violations. The Commission issued a Private Censure to Respondent in accordance with the Settlement Agreement.

The Commission considered the following mitigating factors:

1. Respondent was 20 years old when he committed the shoplifting offense;
2. Shoplifting was a relatively minor offense; and
3. Respondent had no subsequent misconduct.

The Commission considered no aggravating factors.