

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 22747

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. Issue Presented

Whether a candidate for CFP® certification (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he was convicted of a felony and did not disclose the felony conviction as required by his state department of insurance.

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

In October 2008, Respondent submitted an Initial Application for CFP® certification disclosing a third degree criminal conviction and a state regulatory action against him.

In September 2000, Respondent pleaded guilty to a third degree crime of Manufacture or Distribution of a Controlled Substance. Respondent was sentenced to one year of probation, a \$1,000 fine and suspension of his driver’s license for six months.

In August 2006, the state department of banking and insurance issued a consent order stating that Respondent violated state law by failing to report his conviction to the department within 30 days from the date of conviction.

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 failed to perform professional services in accordance with applicable laws, rules and regulations because he failed to comply with state insurance regulations when he failed to report his criminal conviction to the state commissioner of banking and insurance within 30 days of the disposition. Thus, Respondent violated Rule 606(a).

- B. *Rule 607 – A CFP Board designee shall not engage in 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, for two reasons, Respondent engaged in conduct which reflected adversely on his integrity or fitness as a CFP Board designee, upon the marks, and upon the profession. First, he violated a state criminal law by manufacturing or distributing a controlled substance. Second, he failed to report his criminal conviction to the state commissioner of banking and insurance within 30 days from the date of conviction. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

The Commission found grounds for discipline based on Articles 3(a) and 3(c) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*"). Article 3(a) of the *Disciplinary Rules* states that any act or omission which violates provisions of the *Code of Ethics* constitutes grounds for discipline. Article 3(c) establishes grounds for discipline for any act or omission which violates state or federal criminal laws or the laws of any country. The Commission found Article 3(a) grounds for discipline because Respondent violated the *Code of Ethics* rules discussed above. The Commission found Article 3(c) grounds for discipline because Respondent violated a state criminal law by manufacturing or distributing a controlled substance.

The Commission issued a private censure pursuant to Article 4.1 of the *Disciplinary Rules*. Respondent was certified and authorized to use the CFP[®], CERTIFIED FINANCIAL PLANNER[™] and  certification marks.

The Commission considered as a mitigating factor that other than the incident in question, Respondent has not had any conduct issues.

The Commission considered as an aggravating factor that Respondent failed to notify the state department of banking and insurance in a timely manner.