CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 23113

This is a summary of a decision issued following the June 2010 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® professional ("Respondent") violated CFP Board's *Standards of Professional Conduct* when he filed for Chapter 7 Bankruptcy as a result of his inability to pay back a loan to his employer ("Firm").

II. Findings of Fact

Respondent disclosed to CFP Board that he filed for Chapter 7 Bankruptcy in 2008. According to Respondent, he was employed by the Firm in 2001. As part of his employment, Respondent signed a promissory note for an employee forgivable loan ("Note"), to be forgiven in four years. In 2004, Respondent received an extension of the Note term until 2008. Respondent resigned from the Firm in 2005, and the Firm demanded payment of the outstanding balance of the Note.

In 2006, the Firm filed a Statement of Claim with the National Association of Securities Dealers ("NASD", now the Financial Industry Regulatory Authority, Inc. or "FINRA") for the outstanding balance. In a March 2007 Award ("NASD Award"), the NASD Dispute Resolution Panel awarded the Firm the over $500,000 remaining on the Note, plus interest and attorneys' fees.

In June 2007, Respondent filed for Chapter 7 Bankruptcy as a result of the NASD Award. The Chapter 7 Bankruptcy was discharged in February 2010.

III. Rule Violations

A. 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 and fitness as a CFP® professional, upon the marks and upon the profession when he: 1) failed to repay the balance of the Note to the Firm; and 2) filed for Chapter 7 Bankruptcy, which indicated an inability to manage his personal finances. 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 violation of the *Code of Ethics*. The Commission found grounds for discipline under Article 3(a) based on the above *Code of Ethics* rule violation. The Commission issued a Private Censure to Respondent pursuant to Article 4.1 of the *Disciplinary Rules*.

The Commission considered the following mitigating factors:

1. Respondent appeared to appreciate the CFP® marks at hearing;
2. Respondent had significant financial planning experience;
3. Respondent had huge production even while in a down market, which resulted in no other disciplinary history; and
4. Respondent took full responsibility for his conduct.

The Commission considered as an aggravating factor that Respondent did not take prudent steps to fend off his bankruptcy.