

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 23036

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 CFP® certificant (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he used copyrighted materials without permission or attribution.

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

In March 2009 a grievant (“Grievant”) filed a grievance with CFP Board against Respondent. The Grievant claimed that from 2006 to 2008, Respondent used the Grievant’s copyrighted materials without permission or attribution.

Respondent acknowledged that he copied the articles from the Grievant’s website. Respondent stated that after Respondent received an email from the Grievant in December 2008, Respondent desisted from copying any more of the Grievant’s materials.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

- A. *Rule 101(b) – In promotional activities, a CFP Board designee shall not make materially false or misleading communications to the public or create unjustified expectations regarding matters relating to financial planning or the professional activities and competence of the CFP Board designee.*

The Commission found that Respondent plagiarized the Grievant’s copyrighted materials by placing them on Respondent’s website without the Grievant’s permission. Used as promotional activities to benefit Respondent, these plagiarized articles were materially false or misleading communications. By plagiarizing the Grievant’s copyrighted materials, Respondent acted deceitfully for his own personal gain an advantage. Thus, Respondent failed to act with integrity, and therefore violated Rule 101(b).

B. *Rule 102 – In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement to a client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity.*

The Commission found that Respondent copied the Grievant's copyrighted materials without permission, and portrayed the copyrighted materials as his own, without any attribution to the Grievant. By misrepresenting the authorship of the copyrighted materials, Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation. Thus, Respondent violated Rule 102.

C. *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 copied the Grievant's copyrighted materials without permission, and portrayed the copyrighted materials as his own, without any attribution to the Grievant. By misrepresenting the authorship of the copyrighted materials, Respondent engaged in conduct which reflects adversely on Respondent's integrity or fitness as a CFP Board designee, upon the marks, or upon the profession. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* provides grounds for discipline for any act or omission which violates the provision of the *Code of Ethics*. The Commission determined that Article 3(a) grounds for discipline existed because Respondent violated Rules 101(b), 102 and 607.

The Commission and Respondent entered into a Settlement Agreement in which Respondent consented to the above facts and reasoning. Pursuant to the Settlement Agreement, the Commission issued to Respondent a suspension for one year.

The Commission considered as a mitigating factor that no clients were harmed. The Commission considered the following aggravating factors:

1. The articles were copied verbatim over a span of several years; and
2. Respondent's conduct constituted theft of intellectual property.