

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 23371

The following 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 after January 1, 2009. The Rules in effect at that time under the *Rules of Conduct* were Rules 1.1 through 6.5.

I. Issue Presented

Whether a registrant (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he used the CFP® certification marks while not certified.

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

In December 2008, Respondent was notified by CFP Board that his right to use the CFP® certification marks had expired in November 2008. In March 2009, CFP Board administratively relinquished Respondent’s right to use the CFP® certification marks. In June 2009, the following information appeared on Respondent’s firm’s website, under Respondent’s biographical data: “Respondent not only holds the designation of Certified Financial Planner, but is recognized as a Corporate Stock Benefit Consultant.” Additionally, based on information obtained by CFP Board, from June 2009 to July 2009, Respondent held himself out as a CFP® certificant. The Commission determined that Respondent advertised himself to clients and prospective clients as a CFP® certificant at a time when he was aware he was not certified.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

A. *Rule 2.1 - A certificant shall not communicate, directly or indirectly, to clients any false or misleading information directly or indirectly related to the certificant’s professional qualifications or services. A certificant shall not mislead any parties about the potential benefits of the certificant’s service. A certificant shall not fail to disclose or otherwise omit facts where that disclosure is necessary to avoid misleading clients.*

The Commission found that Respondent advertised himself to clients and prospective clients as a CFP® certificant at a time when he was aware he was not certified. By providing clients and prospective clients with false or misleading information about his certification status on his website, Respondent violated Rule 2.1.

- B. *Rule 6.1 – A certificant shall abide by the terms of all agreements with CFP Board, including, but not limited to, using the CFP® marks properly and cooperating fully with CFP Board’s trademark and professional review operations and requirements.*

The Commission found that Respondent used the CFP® certification marks at a time when he was not authorized to do so. Based on the Commission’s finding of Respondent’s unauthorized use, Respondent failed to use the marks properly, thereby failing to abide by the terms of his agreement with CFP Board. Therefore, Respondent violated Rule 6.1.

- C. *Rule 6.5 – A certificant shall not engage in conduct which reflects adversely on his or her integrity or fitness as a certificant, upon the CFP® marks, or upon the profession*

Respondent provided clients and prospective clients with false or misleading information about his certification status on his website. Respondent used the CFP® certification marks at a time when his certification was relinquished. As a result, Respondent failed to use the marks properly, failing to abide by the terms of his agreement with CFP Board. Thus, Respondent engaged in conduct which reflected adversely on his integrity or fitness as a certificant, upon the marks, and upon the profession. Therefore, Respondent violated Rule 6.5.

IV. Discipline Imposed

The Commission found grounds for discipline under Article 3(a) of CFP Board’s *Disciplinary Rules and Procedures* (“*Disciplinary Rules*”). Article 3(a) provides grounds for discipline for any violation of CFP Board’s *Rules of Conduct*. The Commission found grounds for discipline under Article 3(a) based upon its finding that Respondent violated Rules 2.1, 6.1, and 6.5 of the *Rules of Conduct*.

Respondent and CFP Board entered into a settlement agreement that imposed a 90 day suspension of Respondent’s right to use the CFP® certification marks.

The Commission considered no mitigating factors.

The Commission considered as an aggravating factor that Respondent did not accept responsibility for his unauthorized use of the marks.