

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 23408

This is a summary of a Settlement Agreement entered into at the February 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 allowed a trainee to complete portions of his required CFP Board continuing education credits.

II. Findings of Fact

In June 2009, Respondent disclosed to CFP Board his 10-day Financial Industry Regulatory Authority, Inc. (“FINRA” f/k/a National Association of Securities Dealers or “NASD”) suspension for allowing a trainee to complete portions of his required CFP Board continuing education credits. Respondent signed a Letter of Acceptance, Waiver and Consent (“AWC”) in which he consented to the following findings by FINRA: 1) Respondent began taking the courses but allowed the trainee to complete the courses on his behalf; and 2) Respondent submitted the courses to satisfy his required CFP Board continuing education credits.

Pursuant to the terms of the AWC, Respondent consented to the entry of findings that he failed to observe high standards of commercial conduct and honor in violation of NASD Conduct Rule 2110 by permitting a trainee to complete portions of his required CFP Board continuing education credits. As a result, Respondent consented to a 10-day suspension and a \$5,000 fine. Respondent did not report the suspension to CFP Board.

Respondent also signed a Stipulation and Consent Agreement (“Agreement”) with a state regulator in which he consented to the entry of findings that by allowing a trainee to complete portions of his required CFP Board continuing education credits he violated state securities laws. Under the terms of the Agreement, Respondent consented to a 10-day suspension and a \$5,000 fine. Respondent did not report the suspension to CFP Board.

In October 2007, Respondent was terminated by his employer for directing the trainee to complete a portion of his required CFP Board continuing education credits.

III. Rule Violations

- A. *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.*

Respondent engaged in conduct involving dishonesty, fraud, deceit and misrepresentation, and knowingly made a false or misleading statement to his clients when he misrepresented to CFP Board and his clients that he had completed the requirements to maintain his CFP® certification. Thus, Respondent violated Rule 102.

- B. *Rule 201 – A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.*

Respondent failed to exercise reasonable and prudent professional judgment in providing professional services when he: 1) allowed a trainee to complete portions of his required CFP Board continuing education credits; and 2) misrepresented to CFP Board and his clients that he had completed the requirements to maintain his CFP® certification. Thus, Respondent violated Rule 201.

- C. *Rule 406 – A CFP Board designee who is an employee shall perform professional services with dedication to the lawful objectives of the employer and in accordance with this Code of Ethics.*

Respondent failed to perform professional services with dedication to the lawful objectives of his employer when he was terminated for allowing a trainee to complete portions of his required CFP Board continuing education credits. Thus, Respondent violated Rule 406.

- D. *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.*

Respondent failed to perform professional services in accordance with applicable laws, rules and regulations of governmental agencies when he allowed a trainee to complete portions of his required continuing education credits in violation of FINRA rules and state securities laws. Thus, Respondent violated Rule 606(a).

- E. *Rule 606(b) – In all professional activities a CFP Board designee shall perform services in accordance with applicable rules, regulations and other established policies of CFP Board.*

Respondent failed to perform services in accordance with the rules, regulations and policies of CFP Board when he violated the above *Code of Ethics* Rules. Thus, Respondent violated Rule 606(b).

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F. 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.

Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP® professional, upon the marks and upon the profession when he: 1) permitted a trainee to complete portions of his required CFP Board continuing education requirements; 2) misrepresented that he completed the requirements for maintaining his CFP® certification to CFP Board and his clients; 3) was suspended by FINRA and a state regulator for 10 days; and 4) violated the above *Code of Ethics* Rules. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a), 3(d) and 3(e) of CFP Board's *Disciplinary Rules and Procedures* ("Disciplinary Rules"). Article 3(a) provides grounds for discipline for a violation of the *Code of Ethics*. The Commission found Article 3(a) grounds for discipline because Respondent violated the above *Code of Ethics* Rules. Article 3(d) provides grounds for discipline for any act that is the proper basis for a professional suspension. The Commission found Article 3(d) grounds for discipline because Respondent was suspended for 10 days by FINRA and a state regulator. Article 3(e) provides grounds for discipline for any act or omission that violates the *Disciplinary Rules*. The Commission found Article 3(e) grounds for discipline because he failed to notify CFP Board within 10 days of his notification of the suspensions, as required by Article 12.2 of the *Disciplinary Rules*.

Respondent and CFP Board entered into a Settlement Agreement in which Respondent consented to the above Findings of Fact and Rule Violations. Pursuant to the Settlement Agreement, the Commission issued a one-year suspension to Respondent in accordance with Article 4.3 of the *Disciplinary Rules*.

The Commission considered as an aggravating factor that the course Respondent allowed the trainee to complete on his behalf was a CFP Board ethics course. The Commission did not consider any mitigating factors.