

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 23715

This is a summary of a Settlement Agreement entered into at the February 2011 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, and after, January 1, 2009. The Rules in effect for conduct occurring prior to January 1, 2009 were Rules 101 through 705 of CFP Board’s *Code of Ethics and Professional Responsibility* (“*Code of Ethics*”). The Rules in effect for conduct occurring after January 1, 2009 were Rules 1.1 through 6.5 of CFP Board’s *Rules of Conduct*.

I. Issues Presented

Whether a CFP[®] professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he: 1) arranged a meeting with a real estate development company to facilitate his client’s investment in a company that had not been properly evaluated by Respondent or his employer; and 2) filed for Chapter 7 Bankruptcy.

II. Findings of Fact

Client A signed a financial planning agreement with Respondent’s firm. Respondent was assigned to Client A’s account as his primary advisor. Respondent and several employees from his firm conducted several fact-finding meetings as part of the financial planning process. After Respondent presented a comprehensive financial plan, he assisted Client A with implementing the plan.

While he was assisting Client A with implementing the financial plan, Respondent solicited Client A to invest in excess of \$1,000,000 in a real estate development firm in which Respondent had also invested. To do so, Respondent arranged a meeting outside of his firm’s offices between Client A and the real estate development firm. Respondent asserted that he made clear to Client A that the real estate development firm had nothing to do with Respondent’s firm or the services provided by Respondent’s firm. The real estate development firm filed for bankruptcy and both Respondent and Client A lost the total value of their investments.

Respondent suffered substantial losses due to his investments with the real estate development company. In addition to his investment losses, Respondent received several collection attempts relating to the foreclosures on properties he had purchased through the real estate development company.

In August 2009, Respondent filed for Chapter 7 Bankruptcy. Respondent listed Client A as a creditor in his bankruptcy petition. In December 2009, the bankruptcy court discharged Respondent’s bankruptcy.

III. Rule Violations

- A. *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.*

Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP Board designee, upon the marks and upon the profession when he used his position of trust and confidence due to his status as a financial expert and his client's financial advisor to arrange a meeting to facilitate his client's investment in a company that had not been properly vetted by Respondent or his employer. Thus, Respondent violated Rule 607.

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

Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP® professional, upon the CFP® marks, and upon the profession when he filed for Chapter 7 Bankruptcy, which demonstrates an inability to manage his personal financial affairs. Thus, Respondent violated Rule 6.5.

IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("Disciplinary Rules") provides grounds for discipline for any act or omission that violates the *Code of Ethics*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rule 607 of the *Code of Ethics* and Rule 6.5 of the *Rules of Conduct*. The Commission and Respondent entered into a Settlement Agreement in which Respondent consented to the above Findings of Fact and Rules Violations. Based on the terms of the Settlement Agreement, the Commission issued to Respondent a suspension of Respondent's right to use the CFP® marks for three and a half years, pursuant to Article 4.4 of the *Disciplinary Rules*.

The Commission did not consider any mitigating factors.

The Commission considered the following aggravating factors:

1. Respondent discharged potential claims brought by clients with respect to their investments in the real estate development firm.
2. Respondent filed for bankruptcy only one month after becoming certified.