

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 24020

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This is a summary of a Settlement Agreement approved at 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<sup>®</sup> professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when she prepared a legal document without being authorized to practice law.

II. Findings of Fact

Respondent’s clients contacted Respondent seeking assistance in organizing their finances in an effort to rehabilitate their marriage. After meeting with the clients twice, the clients requested that Respondent prepare a property settlement agreement dividing their assets upon their divorce. Respondent prepared a written agreement that included child custody arrangements, child support payments, and alimony, despite not being licensed as an attorney in any jurisdiction.

Respondent met with the clients again to execute the property settlement agreement. The clients executed the document and notarized several other documents memorializing the division of property pursuant to their divorce. Respondent was present for the execution of the property settlement agreement.

The state bar contacted Respondent and indicated that it received information indicating that Respondent prepared a legal document entitled “Property Settlement Agreement” that purported to deal with child support, alimony and marital property distribution between her clients. In her response to the state bar inquiry, Respondent’s attorney indicated that Respondent prepared the document because she felt pressured to do so by her clients.

Respondent received a Letter of Caution (“Letter”) from the state bar. The Letter indicated that an agreement on child custody and support and alimony constituted a legal document. The state bar determined that although it appeared Respondent knowingly prepared a legal document, it would refrain from taking further action based on Respondent’s representation that she would not engage in the unauthorized practice of law in the future.

### III. Rule Violations

- A. *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 she engaged in the unauthorized practice of law by preparing a legal document purporting to deal with child custody and support, alimony and marital property distribution. Therefore, Respondent violated *Code of Ethics* Rule 201.

- B. *Rule 302 – A CFP Board designee shall offer advice only in those areas in which the CFP Board designee has competence. In areas where the CFP Board designee is not professionally competent, CFP 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 offer advice only in those areas in which she was competent because she engaged in the unauthorized practice of law when she prepared a document purporting to deal with child custody and support, alimony and marital property distribution. Respondent is not licensed as an attorney in any state. Thus, Respondent violated *Code of Ethics* Rule 302.

- C. *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 and other applicable authorities because she engaged in the unauthorized practice of law when she prepared a document purporting to deal with child custody and support, alimony and marital property distribution in violation of state law. Thus, Respondent violated *Code of Ethics* Rule 606(a).

- D. *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 violated *Code of Ethics* Rules 201, 302, 606(a), 607 and 609. Therefore, she failed to comply with the applicable rules, regulations and other established policies of CFP Board in violation of *Code of Ethics* Rule 606(b).

*E. 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 which reflects adversely on her integrity and fitness as a CFP Board Designee, upon the marks, and upon the profession because she engaged in the unauthorized practice of law when she prepared a document purporting to deal with child custody and support, alimony and marital property distribution. Thus, Respondent violated *Code of Ethics* Rule 607.

*F. Rule 609 – A CFP Board designee shall not practice any other profession or offer to provide such services unless the CFP Board designee is qualified to practice in those fields and is licensed as required by state law.*

Respondent practiced law without being qualified to practice law because she prepared a document purporting to deal with child custody and support, alimony and marital property distribution without holding an active law license. Thus, Respondent violated *Code of Ethics* Rule 609.

#### IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* 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 Rules 201, 406, 606(a), 606(b), 607 and 609 of the *Code of Ethics*. The Commission and Respondent 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 to Respondent a Private Censure.

The Commission considered the following mitigating factors:

1. No clients were harmed; and
2. The offense was not part of a pattern.

The Commission considered no aggravating factors.