

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 24084

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 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 applied funds of a homeowner’s association (“Association”), which he had oversight and charge of, without proper association authorization, which led the State Department of Insurance to assess monetary penalties against Respondent and his firm to terminate his employment.

II. Findings of Fact

Respondent disclosed that in 2007, his client (“Client A”) filed a customer complaint against him. During a routine background check, CFP Board discovered Respondent’s involvement in a 2009 State Department of Insurance regulatory action and his 2009 Firm Internal Review and Termination. According to Respondent’s Central Registration Depository (“CRD”) record, Client A alleged that investments in a Trust and Income Fund were not suitable and were misrepresented to her. The matter proceeded to Financial Industry Regulatory Authority, Inc. (“FINRA,” formerly known as the National Association of Securities Dealers, “NASD”) arbitration. The parties settled the matter for \$42,500, and the matter was dismissed. Respondent made an individual contribution of \$10,000 to the settlement.

According to Respondent, he was the president of the Association for several terms between 2004 and 2007. In April 2009, Respondent received a complaint from the State Department of Insurance alleging that he applied \$2,000 of Association’s funds without proper authorization. In May 2009, the State Department of Insurance requested that Respondent sign a consent order alleging that he used \$12,000 of the Association’s funds without proper authorization.

In June 2009, Respondent signed a consent order (“State Consent Order”) with the State Department of Insurance. The State Consent Order alleged that Respondent applied an unspecified amount of the Association’s funds, which he had oversight and charge of, without proper association authorization. Pursuant to the Consent Order, Respondent paid a civil penalty of \$2,000, and administrative costs of \$1,000.

According to Respondent's CRD record, in August 2009, the Firm initiated an internal review following receipt of the State Consent Order. The firm terminated Respondent in September 2009. The termination related to allegations that Respondent applied the Association's funds without proper authorization.

III. Rule Violation

- A. *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 applied funds of the Association, which he had oversight and charge of, without proper association authorization. This conduct led the State Department of insurance to assess monetary penalties against Respondent and his firm to terminate his employment. This conduct reflects adversely on Respondent's integrity and fitness as a CFP Board designee, upon the marks and upon the profession. Thus, Respondent violated Rule 607.

A. 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*. The Commission and Respondent entered into a Settlement Agreement in which Respondent consented to the above Findings of Fact and Rule Violation. Based on the terms of the Settlement Agreement, the Commission issued to Respondent a Public Letter of Admonition, pursuant to Article 4.2 of *Disciplinary Rules*.

The Commission considered that no client was harmed as a mitigating factor.

The Commission considered no as aggravating factors.