

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 24272

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This is a summary of a Settlement Agreement approved 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 she improperly notarized a power of attorney and had her notary license revoked as a result.

II. Findings of Fact

In September 2009, Respondent disclosed on her Renewal Application that her notary commission was revoked by a Secretary of State in January 2009 in connection with a power of attorney she notarized in April 2006.

In April 2008, a police detective (“Detective”) filed a complaint against Respondent with the Secretary of State. Detective alleged that Respondent was involved in the misuse of a power of attorney for credit card and mortgage fraud. The victim of the fraud was the mother-in-law of the perpetrator of the fraud. According to Detective, the victim’s daughter-in-law admitted to signing her mother-in-law’s name to the power of attorney and presenting it to Respondent after the fact. Respondent notarized the power of attorney despite the lack of the mother-in-law’s presence at the time.

In December 2008, the Secretary of State filed a complaint against Respondent. In February 2009, Respondent entered into a stipulated order with the Secretary of State. Pursuant to the stipulated order, Respondent agreed that she knew or should have known about provisions of the state Notary Public Act requiring: 1) that a notary may not notarize a document outside the physical presence of the signer and without satisfactory evidence of the signer’s identification; and 2) that a notary shall keep a journal of every acknowledgement taken by such notary to an instrument affecting title to real property unless such original or copy is retained by the notary’s firm or employer in the regular course of business.

In the stipulated order, Respondent agreed: 1) to revocation of her notary commission; and 2) that by stipulating to the revocation Respondent would be forever precluded from becoming a commissioned notary in the state.

### 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 or misrepresentation when she improperly notarized a document in violation of the Notary Public Act. 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 she improperly notarized a document in violation of the Notary Public Act. Thus, Respondent violated Rule 201.

- 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.*

By engaging in conduct that violated the Notary Public Act, Respondent failed to perform services in accordance with applicable laws, rules and regulations of governmental agencies. Thus, Respondent violated 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.*

By violating Rules 102, 201, 606(a), 607 and 701 of the *Code of Ethics*, Respondent failed to perform services in accordance with applicable rules, regulations and other established policies of CFP Board. Thus, Respondent violated 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 that reflects adversely on her integrity and fitness as a CFP Board designee, upon the marks and upon the profession when she improperly notarized a document in violation of the Notary Public Act, resulting in the revocation of her notary commission in the State. Thus, Respondent violated Rule 607.

*F. Rule 701 – A CFP Board designee shall provide services diligently.*

Respondent failed to provide services diligently when she improperly notarized a document in violation of the Notary Public Act. Thus, Respondent violated Rule 701.

#### IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a), 3(d) and 3(e) of the *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 *Code of Ethics* rules discussed above. Article 3(d) provides grounds for discipline for any act that is the proper basis of professional suspension. The Commission found Article 3(d) grounds for discipline because Respondent engaged in acts that are the proper basis for professional suspension and consented to a revocation of her State Notary license. 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 Respondent failed to report the revocation to CFP Board within 10 days of receiving notification of the revocation, as required by Article 12.2 of the *Disciplinary Rules*. The Commission and Respondent entered into a Settlement Agreement in which Respondent consented to the above Findings of Fact and Rule Violations. Based on the terms of the Settlement Agreement, the Commission issued to Respondent a Public Letter of Admonition, pursuant to Article 4.2 of the *Disciplinary Rules*.

The Commission considered as a mitigating factor Respondent’s acceptance of responsibility for her conduct. The Commission considered as an aggravating factor that Respondent’s conduct led to financial loss to the victim.