

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 24467

This is a summary of a decision issued following 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 CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* (“Standards”) when he was terminated by his firm for violating firm policy by signing his client’s name on a firm document, received a Cautionary Action Letter for deficiencies in his compliance with NASD Conduct Rules 2110 and 3110 and entered into a Consent Order with the State Securities Division, which imposed a license suspension and a fine, due to violations of State Administrative Code

II. Findings of Fact

In December 2008, Respondent’s firm terminated him for signing a client’s name to a Letter of Authorization (“LOA”) to reopen the client’s account with the firm. The Financial Industry Regulatory Authority (“FINRA”, formerly known as the National Association of Securities Dealers or “NASD”) investigated the termination and issued a Cautionary Action Letter to Respondent in June 2009. The letter cautioned Respondent on NASD Conduct Rule 2110 for failing to observe high standards of commercial honor and just and equitable principles of trade and NASD Conduct Rule 3110 for deficiencies in the preservation of books and accounts in conformity with rules and regulations of FINRA and Securities and Exchange Commission (“SEC”) Rule 17a-3.

In March 2009, a State Securities Department initiated an investigation into Respondent’s conduct and subsequent termination. In December 2009, Respondent entered into a Consent Order with the State Securities Department in which he was fined \$1,000 and suspended for 14 days. Respondent admitted to the accuracy of factual determinations in the Consent Order that he signed a client’s name to an LOA in December 2008. The Consent Order stated that Respondent violated sections of the State Administrative Code by engaging in dishonest or unethical practice in the securities business. In January 2010, more than ten calendar days after entering into the Consent Order, Respondent reported the suspension to CFP Board.

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’s firm terminated him for signing his client’s name on a firm document, in violation of firm policy. As a result of this conduct, Respondent engaged in deceptive and dishonest conduct and made a misrepresentation to his employer regarding the authenticity of the signature. Thus, Respondent violated Rule 102.

- B. *Rule 406 – A CFP Board designee shall perform professional services with dedication to the lawful objectives of the employer and in accordance with the Code of Ethics.*

Respondent's firm terminated him for signing his client's name on a firm document, in violation of firm policy. Respondent received a Cautionary Action Letter for deficiencies in his compliance with NASD Conduct Rules 2110 and 3110. Respondent also entered into a Consent Order with the State Securities Division, which imposed a license suspension and a fine, due to violations of State Administrative Code. By violating firm policy and State Administrative Code, Respondent did not act with dedication to the lawful objectives of his employer and in accordance with CFP Board's *Code of Ethics*. Thus, Respondent violated Rule 406.

C. 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's firm terminated him for signing his client's name on a firm document, in violation of firm policy. Respondent received a Cautionary Action Letter for deficiencies in his compliance with NASD Conduct Rules 2110 and 3110. Respondent entered into a Consent Order with the State Securities Division, which imposed a license suspension and a fine, due to violations of State Administrative Code. Based on this conduct, Respondent engaged in conduct which reflects adversely on the integrity and fitness as a CFP Board designee, upon the marks, and upon the profession. Thus, Respondent violated Rule 607.

IV. Discipline Imposed

The Commission found grounds for discipline based on Articles 3(a), 3(d) and 3(e) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*"). Article 3(a) of the *Disciplinary Rules* states that any act or omission which violates provisions of the *Code of Ethics* constitutes grounds for discipline. Article 3(d) establishes grounds for discipline for any act which is the proper basis for professional suspension. Article 3(e) establishes grounds for discipline for any act or omission which violates the provisions of the *Disciplinary Rules* or an order of discipline. The Commission found Article 3(a) grounds for discipline because Respondent violated the *Code of Ethics* Rules discussed above. The Commission found Article 3(d) grounds for discipline because Respondent engaged in conduct which resulted in a license suspension from the State Securities Division. The Commission found Article 3(e) grounds for discipline because Respondent failed to disclose the suspension of his professional license to CFP Board within ten calendar days of his notification of the suspension. Accordingly, the Commission issued a private censure to Respondent pursuant to Article 4.1 of the *Disciplinary Rules*.

The Commission considered as mitigating factors:

1. Respondent's conduct did not result in harm to clients.
2. Respondent retrieved the form he signed and attempted to dispose of it.
3. Respondent was apologetic for putting his assistant in an awkward situation by asking her to process the forged document before he retrieved it for disposal.
4. Respondent disclosed his entrance into the consent order to CFP Board, albeit late.
5. Respondent complied with all disciplinary orders and was remorseful and apologetic.

The Commission did not consider any aggravating factors.