

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 24519

---

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. Issues Presented

Whether a candidate for CFP® certification (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he signed clients’ names to account documents, denied doing so during an internal review with his former employer, and failed to disclose this information to his current employer.

II. Findings of Fact

Respondent’s firm initiated an internal review in October 2005 to determine if Respondent signed clients’ names to Letters of Authorization (“LOA”). In December 2005, during an interview with his firm’s managers, Respondent denied that he signed clients’ names on account documents. Respondent resigned from his firm in December 2005 while the internal review was ongoing.

In December 2005, after his resignation, Respondent’s current employer’s compliance manager interviewed him. The compliance manager questioned Respondent about the conduct at issue in the internal review. Respondent failed to disclose to the compliance manager that he had, in fact, signed clients’ names to LOAs.

In January 2006, the New York Stock Exchange (“NYSE”) Regulation initiated an inquiry into Respondent’s conduct. In February 2006, Respondent responded to the NYSE’s inquiry. In his response, Respondent admitted to signing clients’ names on LOAs on two occasions. Respondent said he had express instructions and authorization to sign the clients’ names. In March 2006, Respondent’s current employer issued Respondent a Letter of Admonishment due to inconsistencies between Respondent’s February 2006 response to the NYSE and statements he made to his employer’s compliance manager prior to his employment. The Letter of Admonishment also imposed a \$5,000 fine.

In February 2007, the NYSE issued a letter admonishing Respondent because Respondent signed clients’ names to account documents without proper authority, made misstatements about the conduct to his employer, and failed to disclose pertinent information to his employer. The NYSE stated that this conduct violated NYSE Rules 476(a)(6) and 440 and Securities and Exchange Commission (“SEC”) Rule 17a-4.

### 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.*

The Commission found that Respondent engaged in conduct involving dishonesty, deceit, and misrepresentation and knowingly made false and misleading statements to employers when he signed clients' names on LOAs, misrepresented to his previous firm that he did not sign clients' names on LOAs, and failed to disclose that he signed clients' names on LOAs to his current employer. Thus, Respondent violated Rule 102.

- B. *Rule 201 - A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.*

The Commission found that in the course of providing professional services, Respondent signed clients' names on account documents in violation of firm policy, NYSE regulations, and federal securities laws. By signing clients' names, Respondent did not exercise reasonable and prudent professional judgment in providing professional services. Thus, Respondent violated Rule 201.

- C. *Rule 406 - A CFP Board designee shall perform professional services with dedication to the lawful objectives of the employer and in accordance with th[e] Code of Ethics.*

The Commission found that Respondent signed clients' names on account documents in violation of firm policy, made misstatements to his previous firm, and failed to disclose that he signed clients' names on LOAs to his current employer. Respondent received Letters of Admonishment from NYSE Regulation and his current employer. Based on this conduct, 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.

- D. *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.*

The Commission found that Respondent signed clients' names on account documents in violation of firm policy, made misstatements to his previous firm, and failed to disclose that he signed clients' names on LOAs to his current employer. Respondent received Letters of Admonishment from NYSE Regulation and his current employer. Based on this conduct, Respondent did not perform services in accordance with applicable laws, rules and regulations of governmental agencies and other applicable authorities. Thus, Respondent violated Rule 606(a).

- E. *Rule 606(b) - In all professional activities, a CFP Board designee shall perform services in accordance with the applicable rules, regulations and other established policies of CFP Board.*

The Commission found that Respondent signed clients' names on account documents in violation of firm policy, made misstatements to his previous firm, and failed to disclose that he signed clients' names on LOAs to his current employer. Respondent received Letters of Admonishment from NYSE Regulation and his current employer. Based on this conduct, Respondent violated *Code of Ethics* Rules 102, 201, 406, 606(a), and 607 and thus failed to perform professional services in accordance with the applicable rules, regulations and other established policies of CFP Board. Therefore, Respondent violated Rule 606(b).

*F. 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.*

The Commission found that Respondent signed clients' names on account documents in violation of Respondent's firm policy, made misstatements to Respondent's previous firm, and failed to disclose that he signed clients' names on LOAs to his current employer. Respondent received Letters of Admonishment from NYSE Regulation and his current employer. 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 that Respondent's violation of CFP Board's *Code of Ethics* Rules 102, 201, 406, 606(a), 606(b), and 607 provided grounds for discipline under Article 3(a) of the *Disciplinary Rules and Procedures* ("*Disciplinary Rules*"). Pursuant to Article 4.3 of the *Disciplinary Rules*, the Commission issued a six-month suspension of Respondent's right to use the CFP® marks.

The Commission considered the following mitigating factors:

1. Respondent's conduct did not harm clients;
2. Respondent accepted responsibility for his conduct; and
3. The NYSE's admonition was private.

The Commission considered the following aggravating factors:

1. Respondent did not disclose to his new employer the full circumstances of why he left his previous job; and
2. Respondent signed clients' names on LOAs on at least two occasions with at least two different clients.