

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 24677

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 after January 1, 2009. The Rules in effect at that time under the *Rules of Conduct* were Rules 1.1 through 6.5.

I. Issue Presented

Whether an applicant for reinstatement of her CFP® certification (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when she filed for Chapter 7 Bankruptcy in 2009.

II. Findings of Fact

Between 2003 and 2006, Respondent and her husband purchased several real estate properties, including eight rental properties and one commercial property, in several states. In 2006, Respondent and her husband purchased a restaurant franchise after Respondent’s husband lost his job. In 2007, Respondent and her husband’s loans for the franchise were declined and they were unable to secure another loan. Respondent and her husband used their personal credit cards for expenses relating to the franchise; however, the franchise costs had more than doubled from the initial quotes Respondent and her husband had received from the franchisor and local store owners. According to Respondent, she and her husband used all of their resources, including Respondent’s Individual Retirement Account (“IRA”) funds, to open the franchise. In 2009, Respondent and her husband closed their franchise. As a result of the closing and their inability to pay their creditors, in March 2009, Respondent and her husband filed for Chapter 7 Bankruptcy.

III. Rule Violations

- A. *Rule 6.5 – A certificant shall not engage in conduct which reflects adversely on his or her integrity or fitness as a certificant, upon the CFP® marks, or upon the profession.*

The Commission determined that Respondent’s circumstances prior to filing for bankruptcy were self-created in that Respondent over-leveraged on multiple real estate transactions and entered into a franchise business. The Commission determined that by filing for Chapter 7 Bankruptcy in 2009 and discharging over \$2 million in debts, Respondent indicated an inability to manage her personal finances. As a result, the Commission determined that Respondent engaged in conduct that reflected adversely on her integrity and fitness as a CFP Board designee, upon the marks and upon the profession. Thus, Respondent violated Rule 6.5 of the *Rules of Conduct*.

IV. Discipline Imposed

The Commission found grounds for discipline under Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*"), which provides grounds for discipline for a violation of the *Rules of Conduct*. The Commission found Article 3(a) grounds for discipline because Respondent violated Rule 6.5 of the *Rules of Conduct*. The Commission allowed Respondent to reinstate her CFP® certification but issued her an immediate suspension until March 5, 2014, in accordance with Article 4.3 of the *Disciplinary Rules*.

The Commission considered the following mitigating factors:

1. Respondent's statement that she had learned from filing bankruptcy; and
2. Respondent's apparent remorse for taking such risks.

The Commission considered the following aggravating factor:

1. The Commission noted that Respondent did not recognize that the causes for filing Chapter 7 Bankruptcy included her own personal planning deficiencies, over-leveraging, and the level of risk that she undertook, and instead attributed her filing for Chapter 7 Bankruptcy to the loss of her husband's job and lack of financing for the franchise.