

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 25200

This is a summary of a decision issued following 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® registrant (“Respondent”) demonstrated rehabilitation by clear and convincing evidence that he complied with all disciplinary orders and provisions of the *Disciplinary Rules and Procedures* (“*Disciplinary Rules*”) and is, once again, fit to use the CFP®, CERTIFIED FINANCIAL PLANNER™,  and  certification marks (“CFP® marks”).

II. Findings of Fact Relevant to the Commission’s Decision

In December 2008, CFP Board suspended Respondent’s right to use the CFP® marks for two years. The suspension was related to a State Office of Financial Institutions (“State”) complaint filed against Respondent and his company (“Company”), which was ultimately settled in January 2006. In January 2008, CFP Board filed a complaint against Respondent based on the State Settlement Agreement and Order. In March 2008, Respondent appeared before a hearing panel of the Disciplinary and Ethics Commission (“Commission”).

The Commission found that Respondent: 1) made misrepresentations to clients regarding his fee structure; 2) commingled client funds with his personal funds; 3) offered advice in an area in which he had little or no competence; 4) failed to disclose conflicts of interests to his clients; and 5) failed to provide services diligently.

In February 2011, Respondent petitioned the Board for reinstatement of his right to use the CFP® marks.

III. Commission’s Analysis and Conclusions Regarding Petition for Reinstatement

After a hearing and careful consideration of the evidence in Respondent’s case, the Commission determined to grant Respondent’s petition for reinstatement. The Commission found that Respondent proved by clear and convincing evidence that he was fit to use the CFP® marks. The Commission determination that Respondent proved he had been rehabilitated, complied with all applicable disciplinary orders and provisions of the *Disciplinary Rules and Procedures*, and was fit to use the CFP® marks.

In reaching its decision, the Commission considered two recent civil suits, one filed in the First State and the other in the Second State, by the beneficiaries of the estate of a client, for which Respondent served as executor. The Commission relied on documentation submitted by Respondent indicating that he and the beneficiaries entered into a settlement agreement, which resulted in the dismissal of the suit in the First State. Respondent informed the Commission that he intended to use the same settlement agreement to seek a dismissal of the civil suit in the Second State. The Commission informed Respondent that CFP Board reserved the right to open a new investigation regarding the Second State Civil Suit upon receiving any new information that could, if true, give rise to a violation of the *Standards of Professional Conduct*.

The Commission considered as a mitigating factor the number of recommendations Respondent received from his clients. The Commission considered no aggravating factors.