

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 25306

---

This is a summary of a Settlement Agreement entered into 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 after January 1, 2009. The Rules in effect at that time under the *Rules of Conduct* were Rules 1.1 through 6.5.

I. Issues Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he: 1) borrowed \$8,000 from his clients; 2) did not inform his Firm of the loan and was allowed to resign as a result; 3) violated National Association of Securities Dealers (“NASD,” now known as the Financial Industry Regulatory Authority or “FINRA”) Conduct Rules, resulting in a suspension and fine; and 4) failed to notify CFP Board of the suspension.

II. Findings of Fact

In July 2010, CFP Board discovered Respondent’s involvement in a 2009 internal review and a 2010 FINRA investigation and suspension.

According to Respondent’s U5 on FINRA’s Central Registration Depository, Respondent’s Firm initiated an internal review of Respondent’s conduct following verbal allegations that Respondent borrowed \$8,000 from clients. The loan was made via personal check in June 2008. According to Respondent’s U5, he admitted taking the loan from his clients. The clients were repaid in full, with interest, as of January 2010. Respondent resigned from the firm in December 2009.

In February 2010, FINRA opened an inquiry of Respondent’s alleged loan from clients. In his February 2010 response to FINRA’s inquiry, Respondent stated that he did not discuss the loan or seek approval of the loan from the Firm, and that he made the clients aware that the loan was for his personal use.

Respondent signed a Letter of Acceptance, Waiver and Consent (“AWC”) with FINRA in May 2010, which was accepted by FINRA’s National Adjudicatory Council in May 2010. According to the AWC, Respondent violated NASD Conduct Rules 2370 and 2110 by borrowing money from customers. Pursuant to the AWC, Respondent was suspended from association with any FINRA member in any capacity for 10 days, and fined \$5,000. In a May 2010 letter, FINRA notified Respondent of the effective dates of his suspension. Respondent’s suspension was effective from June 2010 through July 2010. Respondent did not notify CFP Board of the suspension.

### III. Rule Violations

#### A. *Rule 3.6 – A certificant shall not borrow money from a client.*

Respondent received a loan of \$8,000 from his clients. In doing so, Respondent borrowed money from clients who were neither members of Respondent's immediate family nor a lending institution. Thus, Respondent violated Rule 3.6 of the *Rules of Conduct*.

#### B. *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.*

By taking a loan from clients in violation of NASD Conduct Rules 2370 and 2110, Respondent engaged in conduct that reflects adversely on his integrity and fitness as a certificant, upon the marks and upon the profession. Thus, Respondent violated Rule 6.5 of the *Rules of Conduct*.

### IV. Discipline Imposed

Article 3(a) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*") provides grounds for discipline for any act or omission that violates the *Rules of Conduct*. The Commission and Respondent entered into a Settlement Agreement in which Respondent consented to the 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 no mitigating factors.

The Commission considered no aggravating factors.