CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 25362

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 and after January 1, 2009. The Rules in effect under the *Code of Ethics and Professional Responsibility* ("*Code of Ethics*") were Rules 101 through 705 and 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* ("*Standards*") when he: 1) filed for Chapter 7 Bankruptcy in 2010; and 2) encouraged his friends to invest in his brother's real estate project.

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

In April 2006, Respondent's friends filed a civil suit ("2006 Civil Suit") against Respondent for alleged breach of a promissory note, fraud and negligent misrepresentation. In September 2005, following discussions of a real estate project, Respondent and his brother issued a six-month promissory note ("2005 Note") to his friends. Respondent made no payments pursuant to the 2005 Note.

In January 2007, Respondent, his brother and the friends settled the 2006 Civil Suit. According to the settlement agreement, Respondent and his brother used the funds from the 2005 Note for a real estate development project and failed to pay back the 2005 Note in full. Pursuant to the settlement agreement, Respondent and his brother were required to partially reimburse the friends, with a portion of the monies due immediately and the other portion payable in monthly installments. In accordance with the settlement terms, Respondent issued a promissory note ("2007 Note") to the friends. Respondent was unable to fulfill the terms of the 2007 Note, and the 2007 Note went into default.

In March 2010, Respondent filed for Chapter 7 Bankruptcy. The bankruptcy was discharged in May 2010.

III. Commission's Analysis and Conclusions Regarding Rule Violations

A. Rule 607 – A CFP Board designee shall not engage in any 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 determined that Respondent entered into promissory note agreements with his friends on two occasions and failed to pay back the loans. Thus, Respondent violated Rule 607.

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.

The Commission determined that Respondent filed for Chapter 7 Bankruptcy in 2010, which reflected an inability to manage his personal finances. Thus, Respondent violated Rule 6.5.

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 *Code of Ethics*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rules 607 of the *Code of Ethics* and 6.5 of the *Rules of Conduct.* Pursuant to Article 4.2 of the *Disciplinary Rules*, the Commission issued the Respondent a Public Letter of Admonition.

The Commission considered as mitigating factors that:
1. Respondent's conduct did not involve financial planning clients;
2. Respondent settled the matter and attempted to make his friends whole; and
3. Respondent has no prior disciplinary history with CFP Board.

The Commission considered as aggravating factors that Respondent:
1. encouraged his friends to invest although they were conservative individuals close to retirement; and
2. knew the considerable risk of the investment.