

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 25466

This is a summary of a decision issued following the June 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. Issues Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he: 1) pleaded guilty to Fleeing a Police Officer, a misdemeanor, and 2) filed for Chapter 7 Bankruptcy, demonstrating an inability to manage his personal finances.

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

In 2005, Respondent was involved in a disagreement with a shoe store over Respondent’s attempt to purchase a pair of shoes with a Bridge Card. Later that same day, Respondent was driving and did not fully stop at a stop sign. A police officer attempted to pull over Respondent. Once Respondent realized the officer wanted him to pull over, Respondent did so. The police officer thought Respondent was attempting to flee so he charged Respondent with Fleeing a Police Officer, a felony. He also charged Respondent with Retail Fraud in the third degree, a misdemeanor, stemming from the disagreement Respondent had earlier that day with a shoe store owner. In November 2005, Respondent appeared in court and pleaded guilty to the Fleeing a Police Officer charge. As a result of Respondent’s plea, the court reduced the charge to a misdemeanor. The Court dismissed the Retail Fraud charge against Respondent. In December 2005, the Court sentenced Respondent to nine months of probation. In July 2006, Respondent completed his probation.

In November 2006, Respondent filed for Chapter 7 Bankruptcy. Respondent stated that in 2005, he was working in excess of 70 hours per week. He ended up in several psychiatric hospitals and day hospitals. In 2006, Respondent was not able to work the same hours as he had previously, due to being under a doctor’s care. In 2006, Respondent was an income tax consultant/preparer and self-employed part-time. His adjusted gross income was less than \$10,000. Respondent was responsible for paying child support and for health insurance for his children. In late 2006, Respondent had trouble paying his own rent and was unable to be productive. As a result of Respondent’s financial issues, he filed for Chapter 7 Bankruptcy in November 2006. Respondent’s bankruptcy was discharged in March 2007.

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 found that Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP Board designee, upon the marks, and upon the profession when he pleaded guilty to Fleeing a Police Officer, a misdemeanor. Therefore, Respondent violated Rule 607.

- B. *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 found that as a CFP[®] professional, Respondent is held to a higher standard of care than the average business professional. Respondent filed for Chapter 7 Bankruptcy, demonstrating an inability to manage his personal finances. As a result, Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP Board designee, upon the marks, and upon the profession. Therefore, Respondent violated Rule 607.

IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a) and 3(c) of the *Disciplinary Rules and Procedures* (“*Disciplinary Rules*”). Article 3(a) provides grounds for discipline for a violation of the *Code of Ethics*. The Commission found Article 3(a) grounds for discipline because Respondent violated the *Code of Ethics* Rules discussed above. Article 3(c) provides grounds for discipline for any act or omission which violates the criminal laws of any State or of the United States. Respondent pleaded guilty to a criminal charge, providing grounds for discipline under Article 3(c).

Based on the above rule violations and grounds for discipline, the Commission issued an Order to Suspend for one year Respondent's right to use the CFP[®] marks pursuant to Article 4.3 of the *Disciplinary Rules*.

The Commission considered the following mitigating factors: 1) Both behaviors (the misdemeanor and the bankruptcy) occurred several years ago, and Respondent has worked to rehabilitate himself with no relapse in the interim; and 2) Respondent's disability. The Commission did not cite any aggravating factors.