

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 26436

This is a summary of a Settlement Agreement entered into at the November 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) entered into a Letter of Acceptance Waiver and Consent (“AWC”) with the Financial Industry Regulatory Authority, Inc. (“FINRA”, formerly known as the National Association of Securities Dealers or “NASD”) in which he consented to a fine and suspension from association with any FINRA member in any capacity for a period of one month; and 2) failed to disclose the suspension to CFP Board within 10 days.

II. Findings of Fact

In April 2011, while conducting a routine search of the FINRA Disciplinary and Other FINRA Actions Report, CFP Board discovered that Respondent entered into an AWC in which he consented to the facts and findings therein, a \$5,000 fine and suspension from association with any FINRA member in any capacity for a period of one month. In April 2011, Respondent submitted an email to CFP Board in which he disclosed his FINRA suspension.

According to Respondent, in October 2008, a prospective client expressed interest in a universal life insurance policy with a long-term care (“LTC”) benefit. At that time, Respondent was not appointed to sell LTC insurance. Respondent contacted a wholesaler to assist in the completion of the necessary measures to facilitate Respondent’s appointment for sale of the product. In order to complete the appointment, Respondent provided the wholesaler with detailed personal information, which included his Social Security Number, insurance license number and expiration date. On behalf of Respondent, the wholesaler used Respondent’s personal information to complete a mandatory web-based LTC CE course in order to facilitate the appointment.

In December 2009, FINRA notified Respondent that he was under investigation regarding the completion of the mandatory LTC CE course. On January 2011, Respondent entered into an AWC with FINRA in which Respondent consented to the findings that he allowed an individual to complete a mandatory LTC CE course on his behalf. By allowing another representative to complete the mandatory LTC CE examination, Respondent violated NASD Conduct Rule 2110.

As a result of the AWC, FINRA fined Respondent and suspended him from association with any FINRA member in any capacity for one month.

III. Rule Violations

- A. *Rule 102 – In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly making a false or misleading statement to the client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity*

Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation or knowingly made a false or misleading statement when he misrepresented that he had completed a mandatory LTC CE course by allowing another representative to complete the course on his behalf. Thus, Respondent violated *Code of Ethics* Rule 102.

- B. *Rule 606(a) – In all professional activities, a CFP Board designee shall perform professional services in accordance with the applicable laws, rules and regulations of governmental agencies and other applicable authorities.*

Respondent failed to perform professional services in accordance with the applicable laws, rules and regulations of the governmental agencies and other applicable authorities when he misrepresented that he had completed a mandatory LTC CE course by allowing another representative to improperly complete the course on his behalf, in violation of NASD Conduct Rule 2110. Thus, Respondent violated *Code of Ethics* Rule 606(a).

- C. *Rule 606(b) – In all professional activities, a CFP Board designee shall perform professional services in accordance with the applicable rules, regulations and other established policies of CFP Board.*

Respondent failed to perform professional services in accordance with applicable rules, regulations and other established policies of CFP Board when he: 1) misrepresented that he had completed a mandatory LTC CE course by allowing another representative to complete the course on his behalf, in violation of NASD Conduct Rule 2110; 2) entered into a FINRA AWC in which he consented to a \$5,000 fine and suspension from association with any FINRA member in any capacity for a period of one month; and 3) violated Rules 102, 606(a), and 607 of the *Code of Ethics*. Thus, Respondent violated *Code of Ethics* Rule 606(b).

- D. *Rule 607 – A CFP Board designee shall not engage in any conduct which reflects adversely on integrity or fitness as a CFP Board designee, upon the marks, or upon the profession.*

Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP[®] Professional, upon the marks and upon the profession when he misrepresented that he had

completed a mandatory LTC CE course by allowing another representative to complete the course on his behalf. As a result of his actions, FINRA fined Respondent and suspended him from association with any FINRA member in any capacity from one month. Thus, Respondent violated *Code of Ethics* Rule 607.

IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a), 3(d), and 3(e) of CFP Board's *Disciplinary Rules and Procedures* ("*Disciplinary Rules*"). Article 3(a) of the *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 102, 606(a), 606(b) and 607 of the *Code of Ethics*. Article 3(d) of the *Disciplinary Rules* provides grounds for discipline for any act that is the proper basis for a suspension. The Commission found grounds for discipline under Article 3(d) because Respondent received a one-month suspension from FINRA. Article 3(e) of the *Disciplinary Rules* provides grounds for discipline for any act or omission that violates the *Disciplinary Rules* or that violates an order of discipline. The Commission found grounds for discipline under Article 3(e) because Respondent failed to notify CFP Board of his professional suspension within 10 calendar days from the time he was notified of the suspension, in violation of Article 12.2 of the *Disciplinary Rules*.

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 Respondent's lack of diligence in determining the requirements for holding a license to sell LTC Insurance as an aggravating factor

The Commission considered no mitigating factors.