

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES

NUMBER 25468

This is a summary of a Settlement Agreement entered into in January 2012 between Respondent and 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 *Code of Ethics and Professional Responsibility* (“*Code of Ethics*”) were *Rules of Conduct* 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) advised a client verbally and in documentation that the client owned assets the client did not actually own and; 2) shared in the client’s losses to conceal the losses from the firm.

II. Findings of Fact

Respondent’s client began to complain about losses incurred in the client’s trading accounts. The client demanded that he be reimbursed for the losses in his account or he would sue Respondent. Respondent then notified his branch office manager and his managing director that the client was complaining about the losses and threatening him. According to Respondent, neither his branch office manager nor his managing director did anything to assist him in handling the client’s complaint. As a result of his firm’s failure to assist Respondent in the handling of the client’s complaint and losses, Respondent placed funds that he borrowed from his parents into the client’s account. Respondent, at the client’s request, also prepared account statements reflecting the inclusion of Respondent’s own funds in the client’s accounts. Respondent’s firm then terminated him for the above-referenced conduct.

III. Rule Violations

- A. *Rule 2.1 – A certificant shall not communicate, directly or indirectly, to clients or prospective clients any false or misleading information directly or indirectly related to the certificant’s professional qualifications or services. A certificant shall not mislead any parties about the potential benefits of the certificant’s service. A certificant shall not fail to disclose or otherwise omit facts where that disclosure is necessary to avoid misleading clients.*

Respondent communicated false information to a client related to Respondent’s professional services when he misrepresented the value of the client’s account by commingling his own funds with the client’s. Thus, Respondent violated Rule 2.1 of the *Rules of Conduct*.

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Rule 3.8 – A certificiant shall not commingle a client’s property with the property of the certificiant or the certificiant’s employer, unless the commingling is permitted by law or is explicitly authorized and defined in a written agreement between the parties.

Respondent commingled a client’s property with Respondent’s property when Respondent reimbursed a client for his losses from Respondent’s personal funds, rather than follow firm policy with respect to resolving customer complaints. Thus, Respondent violated Rule 3.8 of the *Rules of Conduct*.

Rule 4.4 – A certificiant shall exercise reasonable and prudent professional judgment in providing professional services to clients.

Respondent failed to exercise reasonable and prudent professional judgment in providing professional services to clients when Respondent reimbursed a client for his losses from Respondent’s personal funds, rather than resolving the client’s complaint according to firm policies. Thus, Respondent violated Rule 4.4 of the *Rules of Conduct*.

Rule 5.1 – A certificiant who is an employee/agent shall perform professional services with dedication to the lawful objectives of the employer/principal and in accordance with CFP Board’s Code of Ethics.

Respondent failed to perform professional services with dedication to the lawful objectives of the employer/principal and in accordance with CFP Board’s *Code of Ethics* when he: 1) reimbursed a client for his losses from Respondent’s personal funds, rather than resolving the client’s complaint according to firm policies; and 2) concealed the client’s losses from his firm. Respondent’s firm terminated him for this conduct. Thus, Respondent violated Rule 5.1 of the *Rules of Conduct*.

Rule 6.5 – A certificiant shall not engage in conduct which reflects adversely on his or her integrity or fitness as a certificiant, upon the CFP® marks, or upon the profession.

Respondent engaged in conduct that reflects adversely on his integrity and fitness, upon the CFP® marks, and upon the profession when he reimbursed a client for his losses from Respondent’s personal funds, rather than resolving the client’s complaint according to firm policies. 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 found grounds for discipline under Article 3(a) because Respondent violated Rules 2.1, 3.8, 4.4, 5.1 and 6.5 of the *Rules of Conduct*. CFP Board 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, CFP Board issued to a permanent revocation of Respondent’s right to use the CFP® marks, pursuant to Article 4.4 of the *Disciplinary Rules*.

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