CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 26870

This is a summary of a decision issued following the March 2012 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 at that time under the *Code of Ethics and Professional Responsibility* ("*Code of Ethics*") were Rules 101 through 705. The Rules in effect for conduct occurring after January 1, 2009 were *Rules of Conduct* Rules 1.1 through 6.5.

I. Issue Presented

Whether a CFP® professional ("Respondent") violated CFP Board's *Standards of Professional Conduct* when she filed for Chapter 7 Bankruptcy in 1999 and 2009.

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

In June 1999, Respondent filed for Chapter 7 Bankruptcy in a U.S. Bankruptcy Court ("Court"). The Court discharged Respondent's Chapter 7 Bankruptcy in September 1999. According to Respondent's statement to CFP Board, her bankruptcy was due to medical expenses related to her bipolar disorder.

In March 2009, Respondent filed for Chapter 7 Bankruptcy in the Court. The Court discharged Respondent's Chapter 7 Bankruptcy in July 2009. According to Respondent's statement to CFP Board, her bankruptcy was due to the overexpansion of her financial planning business. In 2006, Respondent started her own business, finding a market niche in eldercare financial planning. Respondent expanded her business by hiring employees and diversifying into other practice areas, including reverse mortgages and asset management. In order to pay her employees, Respondent borrowed money. The business was ultimately not profitable because her overhead, primarily salaries, exceeded her income.

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 demonstrated an inability to manage her personal finances and that Respondent engaged in conduct that reflects adversely on her integrity and fitness as a CFP Board designee, upon the marks, and the profession when she filed for Chapter 7 Bankruptcy in 1999. Thus, Respondent violated *Code of Ethics* 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 demonstrated a continued inability to manage her personal finances and engaged in conduct that reflects adversely on her integrity and fitness as a CFP® professional, upon the CFP® marks and the profession when she filed for her second Chapter 7 Bankruptcy in 2009. 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 *Code of Ethics and Rules of Conduct*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rule 607 of the *Code of Ethics* and Rule 6.5 of the *Rules of Conduct*. Pursuant to Article 4.4 of the *Disciplinary Rules*, the Commission issued a permanent revocation of Respondent's right to use the CFP® marks.

The Commission considered the following mitigating factors: 1) Respondent's first bankruptcy was due to mental illness and medical expenses; and 2) Respondent made efforts to downsize her business to reduce overhead and salaries, but those efforts were not enough for Respondent to avoid filing a second bankruptcy.

The Commission considered the following aggravating factors: 1) Respondent failed to prepare a business plan before expanding her business; 2) Respondent showed poor financial management in setting up her business the second time; 3) Respondent misstated her assets on her personal balance sheet; and 4) Respondent did not maintain a cash reserve or retirement savings.