

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 26933

---

This is a summary of a Settlement Agreement entered into at the March 2013 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 after January 1, 2009. The Rules in effect at that time under the *Rules of Conduct* were Rules 1.1 through 6.5.

I. Issue Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he received a Financial Industry Regulatory Authority (“FINRA” previously known as National Association of Securities Dealers “NASD”) suspension and \$5,000 fine for using an answer key to complete a Long-Term Care (“LTC”) Continuing Education (“CE”) examination.

II. Findings of Fact

According to Respondent’s disclosure letter to CFP Board and the FINRA Letter of Acceptance, Waiver and Consent (“AWC”), in June of 2008, a colleague asked Respondent to sell a universal life insurance policy to a third party residing in a state. State 1 required financial advisors to complete an LTC CE course and examination in order to sell LTC insurance products. In June 2008, Respondent received an email from a CE wholesaler regarding the State 1 LTC CE examination. Attached to the email was a copy of the examination questions with the answers filled in. Respondent used the answer key to complete the LTC CE examination.

In June 2011, Respondent entered into the AWC wherein he consented to the entry of all facts and findings, was suspended from association with any FINRA member firm in all capacities for one month, and fined \$5,000. Additionally, CFP Board discovered that, in June 2012, Respondent entered into a voluntary settlement agreement with the State 2 Department of Insurance regarding the LTC CE Examination and consented to a \$500 fine.

III. Rule Violations

- A. *Rule 102 – 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 to the client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity when he used an answer key to complete an LTC CE course examination. Thus, Respondent violated *Code of Ethics* Rule 102.

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

Respondent failed to perform services in accordance with the applicable laws, rules and regulations of governmental agencies and other applicable authorities when he when he used an answer key to complete an

LTC CE course examination, in violation of NASD Rule 2110. Thus, Respondent violated *Code of Ethics* Rule 606(a).

C. *Rule 606(b) – A CFP Board designee shall perform services in accordance with applicable rules, regulations and other established policies of CFP Board*

Respondent failed to perform services in accordance with applicable rules, regulations and other established policies of CFP Board when he: 1) he used an answer key to complete an LTC CE course examination, in violation of NASD Rule 2110; 2) entered into a FINRA AWC wherein 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 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 Board designee, upon the marks and upon the profession when he: 1) he used an answer key to complete an LTC CE course examination, in violation of NASD Rule 2110; 2) entered into a FINRA AWC wherein 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, 406, 606(a), and 606(b). Thus, Respondent violated *Code of Ethics* Rule 607.

#### IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a) and 3(d) 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 provisions of 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 professional discipline. The Commission found grounds for discipline under Article 3(d) because FINRA suspended Respondent for one month. 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 consulted Anonymous Case Histories 19834, 22986, 23408, 24289, 24595 and 26436. The Commission also considered *Sanction Guidelines* 20(a) (Fraud Involving Professional Activities) and 32 (Professional Discipline involving a suspension for up to one month).

The Commission considered as mitigating factors that:

1. Respondent disclosed his suspension to CFP Board immediately;
2. Respondent's conduct was an isolated incident and not part of a pattern of misconduct;
3. Respondent was not being compensated for his LTC sales;
4. Respondent's conduct did not result in client harm; and
5. Respondent did not solicit the answer key.

The Commission did not consider any aggravating factors.