

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 27488

This is a summary of a decision issued following the June 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 after January 1, 2009. The Rules in effect at that time under the *Rules of Conduct* were 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) altered the date on a check writing form and represented it to his firm as an originally signed and dated document; and 2) had co-trustee clients sign a blank wire transfer form as an accommodation to the clients.

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

According to Respondent’s NOI response, his firm’s compliance department conducted an audit in October 2010 and discovered two issues of concern: 1) date irregularities on a client’s brokerage check writing application form in June 2010; and 2) Respondent’s July 2010 email to a client asking the client to sign a blank document in order to facilitate a wire transfer.

Regarding the alteration of the date on a client’s check writing application form, Respondent stated that in April 2010 the client initially signed and submitted the application in good order to his firm’s office. The office subsequently misplaced the paperwork. Respondent had the client sign and submit another application, but the final page was missing from the second submission. In order to avoid another delay in processing, Respondent changed the date on the final page from April 23, 2010 to June 7, 2010, rather than ask the client to sign and submit a third application.

Regarding Respondent’s request to a client to sign a blank wire transfer form, Respondent stated that he was assisting two co-trustees of an estate with the final distribution to a beneficiary’s checking account. Respondent stated that the account required the signatures of both co-trustees, elderly sisters who lived hours apart from one another. Respondent stated that in July 2010, he emailed the first trustee a blank wire transfer form with instructions for her to complete the form, sign and send the form to the second trustee for her signature. Instead of completing the form, the first trustee signed the blank form and returned it to Respondent, and requested that he send the form to the second trustee for her to complete and sign. Respondent emailed the blank partially signed form to the second trustee who completed and signed the form, and returned it to Respondent for processing.

According to Respondent's Broker-Check record, Respondent resigned from the firm in April 2011.

In April 2011, FINRA notified Respondent of an inquiry into allegations by his firm that Respondent changed the date on a client document and represented it to the firm as an original signed and dated document from the client in violation of firm policy. The purpose of the FINRA inquiry was to determine whether Respondent violated any securities industry rules and regulations. In August 2011, FINRA issued Respondent a Cautionary Action Letter for: 1) altering the date on a check writing form and representing it to his firm as an originally signed and dated document; and 2) having co-trustee clients sign a blank wire transfer form as an accommodation to the clients. FINRA cautioned Respondent concerning future violations of FINRA Rule 2010 for failing to observe high standards of commercial honor and principles of trade, NASD Rule 3110(a) for failing to maintain books and records in conformity with FINRA guidelines and Securities and Exchange Commission ("SEC") Rule 17a-4.

III. Commission's Analysis and Conclusions Regarding Rule Violations

A. *Rule 4.3 – A certificant shall comply with applicable regulatory requirements governing professional services provided to the client*

The Commission determined, based on Respondent's own admission, that Respondent failed to comply with applicable regulatory requirements governing professional services provided to the client when he: 1) altered the date on a check writing form and represented it to his firm as an originally signed and dated document; and 2) had co-trustee clients sign a blank wire transfer form, in violation of firm policy, FINRA Rule 2010 and NASD Rule 3110(a). Thus, Respondent violated *Rules of Conduct* Rule 4.3.

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

The Commission determined, based on Respondent's own admission, that Respondent failed to exercise reasonable and prudent professional judgment in providing professional services when he: 1) altered the date on a check writing form and represented it to his firm as an originally signed and dated document; and 2) had co-trustee clients sign a blank wire transfer form, in violation of firm policy, FINRA Rule 2010 and NASD Rule 3110(a). Thus, Respondent violated *Rules of Conduct* Rule 4.4.

C. *Rule 5.1 – A certificant shall perform professional services with the dedication to the lawful objectives of the employer/principal and in accordance with CFP Board's Code of Ethics*

The Commission determined, based on Respondent's own admission, that Respondent failed to perform professional services with dedication to the lawful objectives of his employer and in accordance with CFP Board's *Code of Ethics* when he violated firm policy, FINRA Rule 2010

and NASD Rule 3110(a) by: 1) altering the date on a check writing form and representing it to his firm as an originally signed and dated document; and 2) having co-trustee clients sign a blank wire transfer form, as an accommodation to the clients. Thus, Respondent violated *Rules of Conduct* Rule 5.1.

D. Rule 6.5 – A certificant shall not engage in conduct which reflects adversely on integrity or fitness, upon the CFP® marks, or upon the profession

The Commission determined, based on Respondent's own admission, that by altering the date on a check writing form and representing it to his firm as an originally signed and dated document, and having co-trustee clients sign a blank wire transfer form as an accommodation to the clients, Respondent violated firm policy, FINRA Rule 2010 and NASD Rule 3110(a), thereby engaging in conduct that reflects adversely on his integrity and fitness and upon the CFP® marks and upon the profession. Thus, Respondent violated *Rules of Conduct* Rule 6.5.

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 4.3, 4.4, 5.1 and 6.5 of the *Rules of Conduct*. Pursuant to Article 4.2 of the *Disciplinary Rules*, the Commission issued Respondent a Public Letter of Admonition.

In mitigation, the Commission considered the following factors:

- 1) Respondent was extremely contrite, cooperative and admitted that his actions were a mistake;
- 2) Respondent has established a client management system with his new firm in order to prevent a recurrence of his conduct;
- 3) Respondent is currently under the care of a therapist and is undergoing cognitive behavior therapy;
- 4) Respondent's conduct occurred prior to being granted the right to use the CFP® certification and while he was serving in a clerical position;
- 5) Respondent provided credible testimony indicating that his conduct was an attempt to help his clients and that his conduct was, in part, a result of the mix up with the home office with respect to the check writing application form;
- 6) Respondent did not appear to have malicious intent when he engaged in his misconduct; and
- 7) Respondent's conduct did not result in any client harm or profit.

The Commission did not cite any aggravating factors.