

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 27686

This is a summary of a Settlement Agreement entered into at the June 2014 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 1) he retained signed incomplete documents in 34 client files in violation of his broker dealer’s documents signature policy; 2) he failed to direct his assistant to remove incomplete documents from the client files; and 3) his broker dealer terminated his registration,.

II. Findings of Fact

In November of 2011, Respondent’s Broker-Dealer conducted an audit of Respondent’s Firm’s branch office. Broker-Dealer auditors reviewed Respondent’s client files and determined that the files of approximately 34 clients contained signed but incomplete documents, in violation of Broker-Dealer’s documents signature policy. According to Respondent, his assistant failed to remove the unnecessary documents from the client files. The documents at issue included, but were not limited to:

- Prospectus Receipts
- Journal Requests
- Investment Switch/Exchange Disclosures
- Brokered CD Disclosures
- Distribution Requests
- Account Transfer: Stock Power
- ACH Authorizations
- Withdrawal Requests

According to Respondent, client forms were signed but incomplete and/or included notations indicating the client’s intent to complete the forms at a later date.

In February 2012, Respondent participated in a conference call with representatives from Broker-Dealer and Firm. at which time Broker-Dealer terminated Respondent’s registration and Firm terminated his employment.

In March 2014, Respondent submitted a Letter of Acceptance, Waiver and Consent (“AWC”) to the Financial Industry Regulatory Authority, Inc. (“FINRA” formerly the National Association of Securities Dealers or “NASD”) wherein he consented to the entry of findings that he violated NASD Rule 2110 for conduct occurring before December 2008 and FINRA Rule 2010 for conduct occurring on and after December 2008. In March 2014, FINRA accepted the AWC, fined Respondent \$5,000 and suspended Respondent from association with any FINRA member in any capacity for a period of 30 calendar days.

CFP Board issued its Complaint against Respondent before it learned of the AWC.

III. Rule Violations

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

Respondent failed to comply with applicable regulatory requirements governing professional services provided to the client when he retained signed incomplete documents in 34 client files, in violation of Broker-Dealer's document signature policy and resulting in his termination. Thus, Respondent violated Rule 4.3 of the *Rules of Conduct*.

- B. *Rule 4.4 – A certificant 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 he retained signed incomplete documents in 34 client files, in violation of his Broker-Dealer's document signature policy and resulting in his termination. Thus, Respondent violated Rule 4.4 of the *Rules of Conduct*.

- C. *Rule 4.6 – A certificant shall provide reasonable and prudent professional supervision or direction to any subordinate or third party to whom the certificant assigns responsibility for any client services.*

Respondent failed to provide reasonable and prudent professional supervision or direction to any subordinate or third party to whom the certificant assigns responsibility for any client services when he failed to direct his assistant remove incomplete documents from client files, which resulted in his termination. Thus, Respondent violated Rule 4.6 of the *Rules of Conduct*.

- D. *Rule 5.1 – A certificant 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 his employer/principal and in accordance with CFP Board's *Code of Ethics* when he retained signed incomplete documents in 34 client files, in violation of his Broker-Dealer's document signature policy and resulting in his termination. Thus, Respondent violated Rule 5.1 of the *Rules of Conduct*.

- E. *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.*

Respondent engaged in conduct that reflects adversely on his integrity and fitness as a certificant, upon the CFP® marks, and upon the profession when: 1) he retained signed incomplete documents in 34 client files in violation of his broker dealer's documents signature policy; 2) he failed to direct his assistant to remove incomplete documents from client files; and 3) his broker dealer terminated his registration. Thus, Respondent violated Rule 6.5 of the *Rules of Conduct*.

IV. Discipline Imposed

Article 3(a) of CFP Board's *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, 4.6, 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, the Commission issued to Respondent a Public Letter of Admonition, pursuant to Article 4.2 of the *Disciplinary Rules*.

In aggravation, the Commission felt that Respondent placed blame on his assistant for her oversight in failing to remove unneeded documents from the clients' files. Further, he had been in the industry for 24 years and should have known better than to have incomplete, pre-signed forms for any of his clients.

The Commission considered as a mitigating factor that Respondent's conduct did not result in any client harm.

In reaching its decision, the Commission consulted *Sanction Guidelines* 2, (Books & Records Violation), 12 (Employer Policies Violation), 18 (Failure to Supervise) and 32 (Professional Discipline Involving a Suspension for up to 30 Days).