CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 27711

This is a summary of a Settlement Agreement entered into at the October 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 prior to 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.

I. Issue Presented

Whether a CFP® professional ("Respondent") violated CFP Board's *Standards of Professional Conduct* when he forged clients' signatures on an Individual Retirement Account ("IRA") Transfer Form and IRA Adoption Agreements without the clients' authorization or knowledge, in violation of National Association of Securities Dealers ("NASD" now known as the Financial Industry Regulatory Authority, Inc. or "FINRA") Conduct Rule 2110.

II. Findings of Fact

In June 2011, Respondent resigned from Firm. In June 2011, Respondent sent four banker's boxes of client and firm documents to Firm. The Grievant conducted an internal review of Respondent after Respondent's departure. RG, a Firm registered representative and Firm client, told the Grievant that Respondent had forged RG's and his wife's, MG, names on account documents. RG stated that he approved of the transactions Respondent executed with the forged documents so RG did not feel the need to report the forgeries to the Grievant.

The Grievant provided the forged documents to CFP Board. According to the Grievant, Respondent forged MG's name on an IRA Transfer Form dated November 2008 and on an IRA Adoption Agreement dated November 2008. In August 2011, MG signed a declaration wherein she stated that her signatures on the IRA Transfer Form and the IRA Adoption Agreement were forged and she did not give anyone permission to sign her name. Respondent also forged RG's name on an IRA Adoption Agreement dated November 2008. In August 2011, RG signed a declaration wherein he stated that his signature on the IRA Adoption Agreement was forged and he did not give anyone permission to sign his name.

In April 2013, Respondent entered into an AWC with FINRA. Respondent consented to the entry of findings that he "signed the names of two customers on documents related to the opening of authorized IRA accounts without their knowledge or consent." This conduct violated NASD Conduct Rule 2110. FINRA suspended Respondent from association with any FINRA member in any capacity for twenty business days and fined Respondent $5,000.

III. Rule Violations

A. Rule 102 – In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement to a client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity.

Respondent forged clients' signatures on account documents and submitted them. Respondent represented the signatures as authentic and did not inform the funds that he forged the signatures without authorization from the clients. By misrepresenting the authenticity of client signatures to the funds, Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly making a false or misleading statement to a client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity. Thus, Respondent violated *Code of Ethics* Rule 102.

B. Rule 201 – A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.

Respondent forged clients' signatures on an IRA Transfer Form and IRA Adoption Agreements without the clients' authorization or knowledge, in violation of NASD Conduct Rule 2110. By forging clients' signatures on account documents, Respondent failed to exercise reasonable and prudent professional judgment in providing professional services. Thus, Respondent violated *Code of Ethics* Rule 201.

C. 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 forged clients' signatures on an IRA Transfer Form and IRA Adoption Agreements without the clients' authorization or knowledge, in violation of NASD Conduct Rule 2110. By forging clients' signatures on account documents and violating NASD Conduct Rule 2110, Respondent failed to perform services in accordance with applicable laws, rules and regulations of governmental agencies and other applicable authorities. Thus, Respondent violated *Code of Ethics* Rule 606(a).

D. 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.

Respondent forged clients' signatures on an IRA Transfer Form and IRA Adoption Agreements without the clients' authorization or knowledge, in violation of NASD Conduct Rule 2110. By forging clients' signatures on account documents in violation of NASD Conduct Rule 2110 and being publicly suspended and fined by FINRA, Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP® professional, upon the marks, and upon the profession. 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 CFP Board's *Disciplinary Rules* provides grounds for discipline for any act or omission that violates the *Code of Ethics*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rules 102, 201, 606(a), and 607 of the *Code of Ethics.* Article 3(d) of CFP Board's *Disciplinary Rules* provides grounds for discipline for any act that is the proper basis for professional discipline. The Commission found grounds for professional discipline under Article 3(d) because FINRA suspended Respondent for twenty business days. 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 considered the following mitigating factors:

1. It appears that the first incident of forgery was on behalf of a fellow employee and CFP® professional who worked as registered representative at Respondent's firm. The signature section where the forgery occurred was in the space for the investment professional, which had to be completed to allow the account owners (who were also investment professionals) to purchase the funds at Net Asset Value. Respondent took these actions without intent to harm the fellow employee. The forgery for the fellow employee's wife's account was for the purpose of initiating a transfer;
2. Respondent did not intend to benefit and did not benefit from his conduct. The Commission placed significant weight on this mitigating circumstance and deviated from *Sanction Guidelines*;
3. Respondent had a clean disciplinary record prior to this matter;
4. FINRA expunged the U-5 filing by Respondent's employer; and
5. The grievant appeared to have pursued a vindictive action against Respondent.

The Commission considered no aggravating factors.

The Commission consulted Anonymous Case Histories 27004, 27037, 28497, 21894, 22798, 28116 and 24467 and *Sanction Guidelines* 19 (Forgery), 30 (Securities Law Violation) and 32 (Professional Discipline as defined in Article 13.6 involving a suspension for up to one calendar month) in arriving at its decision. The Commission also noted that it believed a Public Letter of Admonition was appropriate because Respondent's conduct did not harm the client, who were also registered representatives whom he worked with at Firm.