

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 27934

This is a summary of a decision issued following the June 2013 hearings of the Disciplinary and Ethics Commission (“Commission”) of Certified Financial Planner Board of Standards, Inc. (“CFP Board”). The Reinstatement Application for Certification (“Application”) at issue in this case was filed after September 14, 2012. CFP Board’s *Fitness Standards for Candidates and Professionals Eligible for Reinstatement* (“*Fitness Standards*”) were in effect at that time.

I. Issue Presented

Whether a candidate for CFP® certification (“Respondent”) could be certified when CFP Board discovered Respondent’s involvement in three Internal Revenue Service (“IRS”) tax liens allegedly totaling approximately \$173,000 for tax years 2007, 2008 and 2009.

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

In a June 2012 letter, Tax Advisor explained that Respondent was married and jointly files taxes with her husband. Tax Advisor stated that Respondent was a W-2 wage earner who had taxes withheld from her pay and the couple’s tax liability was due to income earned by her spouse. Her spouse was a retired City police officer and received a pension, but he also owned his own business and filed a Schedule C on the couple’s joint return.

According to Tax Advisor, the 2007 tax lien amount of approximately \$78,000 stated in CFP Board’s NOI was incorrect, and that the actual amount due was approximately \$12,000 because Respondent and her spouse were making monthly installment payments to the IRS. Tax Advisor stated that there was no balance due on the couple’s 2008 tax return. Tax Advisor also stated that the couple had a balance due on their 2009 tax return, but they were making monthly installment payments. According to Tax Advisor, Respondent and her spouse were current on their 2011 and 2012 tax returns. Tax Advisor did not include any supporting documents in his response to CFP Board on Respondent’s behalf.

In August 2012, CFP Board mailed a request for additional information (“RFAI”) to Respondent. In an August 2012 email to CFP Board, Respondent indicated that she was working with her accountant to compile the materials requested and she would send them as soon as possible. In December 2012, Respondent responded to CFP Board’s RFAI. In February 2013, after an exchange of emails and telephone calls regarding the insufficiency of Respondent’s response to the RFAI, CFP Board emailed to Respondent another RFAI. Respondent did not respond to CFP Board’s February 2013 RFAI. In March 2013, CFP Board sent to Respondent another email regarding the consequences of her failure to respond to CFP Board’s telephone and email requests for information. In March 2013, Respondent provided some documents in response to CFP Board’s February 2013 email.

In response to CFP Board’s request for a copy of Respondent and her spouse’s installment payment agreement with the IRS, Tax Advisor stated that there was no formal installment plan because the IRS had rejected the couple’s Offer in Compromise (“OIC”). However, Respondent and her spouse were making monthly payments and the IRS had temporarily ceased their collection efforts against the couple.

Respondent and her spouse were still attempting to negotiate an OIC with the IRS. Tax Professional stated that he anticipated that the parties would sign an OIC in the next 60 days.

Respondent provided copies of IRS Account Transcripts for the couple showing the following balances: 1) approximately \$12,000 for the 2007 tax year; 2) \$0 for the 2008 tax year; and 3) approximately \$27,000 for the 2009 tax year.

In April 2013, Respondent filed a Petition for Consideration pursuant to CFP Board's *Fitness Standards*.

III. Commission's Decision

Under CFP Board's *Candidate Fitness Standards/Fitness Standards*, Respondent's involvement in three IRS tax liens allegedly totaling approximately \$173,000 for tax years 2007, 2008 and 2009 is conduct that CFP Board staff determined may reflect adversely on the profession and the CFP® certification marks, and may bar an individual from becoming certified unless the individual petitions the Commission for reconsideration.

The Commission did not cite any mitigating or aggravating factors.

The Commission determined that the IRS reviewed Respondent's taxes in 2010 for the past three years and formulated that the family may have had tax liability in excess of \$170,000 for the three years. However, the total of the liens that the IRS issued against Respondent's family combined the total tax due for the three years in the form of liens. The Commission's review of actual amounts due to the IRS substantiated the statements of Tax Advisor. In testimony, Respondent stated that she and her husband were making monthly payments to the IRS to pay off the liens. This was substantiated by material from Tax Advisor and was on-going at the time of the hearing. Based on this information, the Commission determined that the actions of the IRS seemed to be excessive in light of the filings and materials.

While the non-payment of taxes is a serious breach of standards, no clients were harmed by Respondent's actions and she has taken steps to remedy the issue. Respondent has also indicated that she will utilize a professional preparer of the family's taxes in the future.

The Commission determined that Respondent's conduct did not reflect adversely on her fitness as a candidate for CFP® certification, upon the profession and the CFP® certification marks. Thus, the Commission granted Respondent's Petition for Consideration.