

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 28137

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 before and after January 1, 2009. The Rules in effect for conduct occurring before January 1, 2009 were Rules 101 through 705 of CFP Board’s *Code of Ethics and Professional Responsibility* (“*Code of Ethics*”). The Rules in effect for conduct occurring after January 1, 2009 were Rules 1.1 through 6.5 of CFP Board’s *Rules of Conduct*.

I. Issue Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he filed for Chapter 7 Bankruptcy in 1994 and Chapter 13 Bankruptcy in 2010.

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

In March 1994, Respondent filed for Chapter 7 Bankruptcy in a United States Bankruptcy Court (“Bankruptcy Court”). The Bankruptcy Court discharged the Bankruptcy in July 1994. According to Respondent, the Chapter 7 Bankruptcy was the result of an unsuccessful attempt at a transition to a management position, which resulted in significant expenses and loss of income.

In November 2010, Respondent filed for Chapter 13 Bankruptcy in the Bankruptcy Court. The Bankruptcy Court approved Respondent’s repayment plan. According to Respondent, the Chapter 13 Bankruptcy was due to a reduction in net worth as a result of the global market downturn of 2008.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

A. *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*

By filing for Chapter 7 Bankruptcy in 1994, Respondent demonstrated an inability to manage his personal finances and engaged in conduct that reflects adversely on his integrity and fitness as a CFP® designee, upon the CFP® marks and upon the profession. Thus, Respondent violated *Code of Ethics* Rule 607.

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

By filing for Chapter 13 Bankruptcy in 2010, Respondent demonstrated a repeated inability to manage his personal finances and engaged in conduct that reflects adversely on his integrity and fitness, upon the CFP® marks and upon the profession. Thus, Respondent violated Rule 6.5 of the *Rules of Conduct*.

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 *Code of Ethics* and/or *Rules of Conduct*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rule 607 of the *Code of Ethics* and Rule 6.5 of the *Rules of Conduct*. 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 four -year suspension pursuant to Article 4.3 of the *Disciplinary Rules*.

In imposing this discipline, the Commission considered the following mitigating factors:

1. Respondent had no client complaints over his first 22 years of business; and
2. Respondent was attempting to satisfy creditor debts at the time of the settlement offer review.

The Commission cited the following aggravating factors:

1. Respondent had filed for two bankruptcies;
2. Respondent's second bankruptcy contained the same creditor names as the first bankruptcy; and
3. Respondent's level of income should have been sufficient to meet his expenses.