

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 28212

This is a summary of a decision issued following the March 2013 hearings of the Disciplinary and Ethics Commission (“Commission”) of Certified Financial Planner Board of Standards, Inc. (“CFP Board”). The Initial 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 was convicted for Driving While Impaired (“DWI”) in 2005, 2006 and 2009.

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

In August 2005, Respondent was convicted of one count of Third-Degree DWI, a gross misdemeanor, in District Court (“Court”). The Court found as an aggravating factor that Respondent’s blood alcohol level was twice the legal limit. The Court required Respondent to complete two days in jail and two years of probation and to pay fines and fees.

In October 2006, Respondent was convicted of one count of Third-Degree DWI. The Court found the following aggravating factors: 1) Respondent’s prior DWI conviction; and 2) Respondent’s blood alcohol level was twice the legal limit. The Court required Respondent to complete two days in jail, electric home monitoring for 28 days, two years of probation and to pay fines and fees.

In September 2009, Respondent was convicted of one count of Second-Degree DWI, a gross misdemeanor. The Court noted the 2005 and 2006 DWI convictions as aggravating factors. The Court required Respondent to complete 30 days in jail, electric home monitoring for 60 days upon his release, 36 months of probation and to pay fines and fees.

In September 2012, the Court found that Respondent had satisfactorily completed all terms of his sentence and discharged his probation.

III. Discipline Imposed

CFP Board has established specific character and fitness standards for candidates for CFP® certification to ensure the individual’s conduct does not reflect adversely on the profession or upon the CFP® certification marks. Under CFP Board’s *Fitness Standards*, Respondent’s three DWIs were conduct that may reflect adversely on the profession and the CFP® marks, and will bar an individual from becoming certified unless the individual petitions the Commission for consideration. The Commission felt that the Respondent’s three DWI convictions over a four-year period from 2005 to 2009 was conduct that reflected adversely upon the profession and the CFP® marks. The Commission determined to deny Respondent’s Petition for Consideration with the right to re-apply in one year. The Commission arrived at a one-year delay to allow Respondent to demonstrate that he has had a five-year period with no alcohol issues.

The Commission consulted Anonymous Case Histories 22005 and 26986.

The Commission cited as mitigating factors that:

1. Respondent has had no client complaints;
2. Respondent had numerous letters of recommendations from clients, co-workers and public figures;
3. Respondent accepted responsibility for past convictions; and
4. Respondent is in good standing with his employer and had been there for over 10 years.

The Commission cited as aggravating factors that:

1. Respondent engaged in repeated behavior, which resulted in three DWI convictions over a four year period;
2. Respondent served a 30-day jail sentence and 36-month probation; and
3. In Respondent's 2005 and 2006 DWI convictions, Respondent's blood alcohol level was twice the legal limit.