

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 28383

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 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 he: 1) violated State Law by failing to file financial statements for his registered investment advisor for fiscal years 2009, 2010, and 2011 no later than 90 days after the end of each year; and 2) failed to respond to two requests for information filed by CFP Board.

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

In November 2012, the State Office of Financial Regulation (“Office”) issued a Final Order that incorporated a Stipulation and Consent Agreement entered into by the Office and Respondent. Respondent is managing member of and contact regarding registration for a registered investment advisor (“RIA”) with State. State Law required RIA to file financial statements with the Office within 90 days of the end of each fiscal year. The Office found that, as of May 2012, RIA had failed to file financial statements for 2009, 2010, and 2011. The Office determined that by failing to file financial statements for fiscal years 2009, 2010, and 2011 no later than 90 days after the end of each year, RIA violated State Law. The Office then fined RIA \$3,000 and ordered RIA to cease and desist from violating State Law. Respondent signed the Stipulation and Consent Agreement as manager of RIA.

III. Commission’s Analysis and Conclusions Regarding Rule Violations

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

The Commission determined that Respondent failed to comply with applicable regulatory requirements governing professional services provided to clients when he violated State Law by failing to file financial statements for his registered investment advisor for fiscal years 2009, 2010, and 2011 within 90 days after the end of each year. Thus, Respondent violated *Rules of Conduct* Rule 4.3.

B. *Rule 6.5 Violation – 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.*

The Commission determined that Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP® professional, upon the CFP® marks, and upon the profession when he: 1) violated State Law by failing to file financial statements for his registered investment advisor for fiscal years 2009, 2010, and 2011 no later than 90 days after the end of each year; and 2) failed to respond to two requests for information filed by CFP Board. Thus, Respondent violated *Rules of Conduct* Rule 6.5.

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 *Rules of Conduct*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rules 4.3 and 6.5 of the *Rules of Conduct*. Pursuant to Article 4.1 of the *Disciplinary Rules*, the Commission issued a Private Censure to Respondent.

The Commission considered as mitigating factors that:

1. Respondent's failure to respond to CFP Board's requests was due in part to his constant travel for a period of four months to attend to his ill and aging father who resided four hours away;
2. Respondent's failure to produce financial statements to State was an oversight and not an effort to avoid responsibility;
3. Respondent's cooperation with the State immediately upon notification of his failure to file the financial statements resulted in a settlement of 50% of the initial fine assessment;
4. Respondent's conduct did not result in client harm; and
5. Respondent had no prior disciplinary history.

The Commission did not consider any aggravating factors.

The Commission consulted Anonymous Case History 21781. The Commission also consulted *Sanction Guideline 17* (Failure to Respond to a CFP Board Request for Information or Notice of Investigation).