

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 28675

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This is a summary of a Settlement Agreement entered into at the February 2014 hearings of the Disciplinary and Ethics Commission (“DEC”) 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. Issue Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when he had his clients sign blank Automated Customer Account Transfer (“ACAT”) forms.

II. Findings of Fact

In his August 2013 NOI response, Respondent’s attorney stated that Firm terminated Respondent in June 2013 for having clients sign blank ACAT forms in violation of Firm’s policy.

Specifically, Respondent’s attorney stated that the termination was related to investors holding Company private placement real estate investment trusts (“REITs”) in their accounts. The Company REITs’ initial public offering (“IPO”) were scheduled to be released. Approximately 213 of Respondent’s clients held Company REIT assets totaling \$10,400,000 in their accounts. Approximately 75 of these accounts were Firm-networked accounts. In order to continue servicing these 75 Firm-networked accounts, Firm required that the holdings be transferred into retail brokerage accounts with Firm using the ACAT system.

Respondent’s attorney stated that Respondent had been required to complete a large number of ACAT forms within a short period of time. Additionally, Respondent became confused about the proper procedure for the transfer because he received instructions from his Office of Supervisory Jurisdiction (“OSJ”) and his Compliance Officer to either leave the ACAT documents undated or to predate them for the expected date of the IPO.

According to Respondent’s June 2013 CRD Form U5, Respondent was terminated for obtaining client signatures on blank account transfer forms.

III. Rule Violations

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

Respondent failed to comply with applicable regulatory requirements governing professional services to clients when he had his clients sign blank ACAT forms in violation of Firm’s policy. Thus, Respondent violated Rule 4.3 of the *Rules of Conduct*.

B. *Rule 4.4 violation – A certificant shall exercise reasonable and prudent professional judgment in providing professional services to clients.*

Respondent failed to exercise reasonable and prudent professional judgment in providing professional services to clients when he had his clients sign blank ACAT forms in violation of Firm's policy, resulting in his termination by Firm. Thus, Respondent violated Rule 4.4 of the *Rules of Conduct*.

*C. Rule 5.1 violation – A certificant shall perform professional services with dedication to the lawful objectives of the employer/principal and in accordance with CFP Board's Code of Ethics.*

Respondent failed to perform professional services with dedication to the lawful objectives of the employer and in accordance with CFP Board's *Code of Ethics* when he had his clients sign blank ACAT forms in violation of Firm's policy, resulting his termination by Firm. Thus, Respondent violated Rule 5.1 of the *Rules of Conduct*.

*D. 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.*

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 had his clients sign blank ACAT forms in violation of his Firm's policy, resulting his termination by the Firm. 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 *Rules of Conduct*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rules 4.3, 4.4, 5.1 and 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 Public Letter of Admonition, pursuant to Article 4.2 of the *Disciplinary Rules*.

The Commission considered the following aggravating factors:

1. The employer policy violation led to Respondent's termination; and
2. It appeared that there were numerous signed blank account transfer forms.

The Commission considered as a mitigating factor that Respondent's conduct did not result in any client harm and there was no malicious intent.

The Commission consulted Anonymous Case Histories ("ACH") 27004 and 27488. The ACH's cited by the Commission involved the maintenance of blank, signed documents or altering of documents to assist the client. The Commission also consulted *Sanction Guidelines* 12 (Employer Policies Violation) and 30 (Securities Law Violation) in arriving at its decision.