

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 28855

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This is a summary of a Settlement Agreement entered into at the October 2014 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 both prior to and after January 1, 2009. The Rules in effect for conduct occurring prior to January 1, 2009 were Rules 101 through 705 of the *Code of Ethics*, and the rules in effect for conduct occurring after January 1, 2009 were Rules 1.1 through 6.5 of the *Rules of Conduct*.

I. Issues Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when she 1) altered client documents, which violated her firm’s policies and Financial Industry Regulatory Authority, Inc.’s (“FINRA”) Rule 2010 and 2) created consolidated customer statements which were then provided to certain clients without firm pre-approval.

II. Findings of Fact

*2006 FIRM LETTER OF EDUCATION*

In August 2006, Respondent received a Letter of Education from the Field Compliance Manager at her firm. The Letter’s purpose was to clarify firm procedures and policy regarding procurement of Letters of Indemnity and the accurate reporting of customer correspondence. The Field Compliance Manager stated that Respondent received a letter of instruction from a customer’s attorney requesting a Letter of Indemnity to an insurance company. Without checking with the back office for assistance, Respondent wrote and signed a Letter of Indemnity and then mailed it to the insurance company. Firm registered representatives were prohibited from creating, signing, or authorizing Letters of Indemnity.

When the firm questioned Respondent regarding why the letter of request from the customer’s attorney was not entered into her Correspondence Log, she replied that it was not from the customer so she thought it did not need to be entered. Firm registered representatives must enter all incoming customer correspondence in an accurate and timely fashion into the Correspondence Log. The firm required Respondent to review Section 5.3 of its Compliance Manual and affirm she had done so by signing and dating the Letter of Education. Respondent signed the Letter in August 2006.

*2008 FIRM LETTER OF EDUCATION*

In October 2008, the firm issued another Letter of Education to Respondent. This Letter concerned Respondent’s failure to deliver a variable annuity contract in a timely manner. In her July 2014 response to CFP Board, Respondent indicated that she did not retain a copy of this letter in her files, and was therefore not able to provide a copy to CFP Board.

*2008 FIRM LETTER OF CONCERN*

In December 2008, Respondent received a Letter of Concern from the firm’s Chief Compliance Officer. The Letter’s purpose was to remind Respondent of her responsibilities as a firm registered representative. On or around November 2008, Respondent had submitted a variable annuity checklist that was missing the disclosure of various fees associated with owning a variable annuity. After receiving the checklist, Respondent was asked to have the checklist re-signed by the customer after the fees were disclosed in writing. In December 2008,

ACH 28855

- 1 -

Respondent faxed to her firm a replacement variable annuity checklist for the one originally submitted on or around November 2008. The replacement checklist included the requisite fee disclosures.

After receiving the replacement variable annuity checklist, the firm noticed that it was virtually identical to the original checklist that was previously submitted in November. In fact, the only differences between the two checklists was that on the replacement checklist, the date had been changed to December 2008, and the variable annuity fees were disclosed.

It was apparent that the December checklist had been altered and not re-signed by the customer and Respondent admitted as much to the firm's Chief Compliance Officer in December 2008. Altering a customer's signed document was a clear violation of firm policy and Respondent was assessed a fine of \$500. The firm required Respondent to acknowledge receipt of the Letter of Concern by signing and returning a copy of the Letter to the Chief Compliance Officer. Respondent did so in January 2009. In her July 2014 response to CFP Board, Respondent provided proof of payment of her \$500 fine in January 2009.

#### *2012 FIRM CORRECTIVE ACTION NOTICE*

In December 2012, Respondent received a Corrective Action Notice ("Notice") from a Sales Manager at her firm. The Notice concerned Respondent's multiple instances of cutting and pasting client signatures onto forms and altering forms with whiteout. The Sales Manager stated that as a firm Financial Advisor, Respondent was expected to adhere to the highest standards of ethical behavior. The Sales Manager issued the following sanctions to Respondent: 1) Respondent was disqualified from the May 2013 President's Council; 2) Respondent's Women of Distinction designation was to be removed through December 2013; and 3) Respondent could no longer use the title VP, Wealth Management through December 2013.

The Sales Manager also informed Respondent that her job performance and the compliance violations of her practice were unacceptable. The firm required Respondent to acknowledge receipt of the Notice by signing the Notice. Respondent did so in December 2012.

#### *2012 FIRM LETTER OF CONCERN AND HEIGHTENED SUPERVISION*

In December 2012, the firm's Chief Compliance Officer issued a Letter of Concern, a fine, and heightened supervision to Respondent. The Letter pertained to signature concerns relating to certain customer accounts and document alteration for another customer's account. The Chief Compliance Officer informed Respondent of the following disciplinary action: 1) a fine of \$2,500; and 2) heightened supervision for a period of six months. Respondent's Supervisory Principal was to be Respondent's contact for this procedure. The firm required Respondent to acknowledge receipt of the Letter by signing and returning a copy of the Letter to the Chief Compliance Officer. Respondent did so on an undetermined date. In her July 2014 response to CFP Board, Respondent provided proof of payment of her \$2,500 fine in December 2012.

Respondent stated that the only correspondence in December 2012 regarding her heightened supervision was the letter from the Chief Compliance Officer. Respondent recalled that under her heightened supervision plan, she completed some online self-study courses in February 2014. In addition, her Supervisory Principal conducted an office inspection and reviewed her client files. Respondent successfully completed her period of heightened supervision without incident.

#### *2013 FIRM TERMINATION*

According to Respondent's Form U5, her firm terminated her in August 2013 for the following: "Repeated violation of firm policies occurred which led to termination, including: cut and paste of client signatures; altering forms and creating consolidated customer statements which were then provided to certain clients without pre-approval."

ACH 28855

- 2 -

In December 2013, Respondent provided a detailed, written statement regarding her termination. Respondent stated that the direct cause of her termination was the FINRA Investigation. She also stated that the FINRA Investigation concerned a client meeting summary (“Agenda”) that Respondent had been using since 2004. Respondent created the Agenda for internal use only. When meeting with a client, Respondent used the Agenda as a tool to help her focus on a client’s overall financial picture rather than a particular account or product. The Agenda was a summary of a client’s financial goals, savings and investment accounts, type of accounts, life insurance and long-term care insurance policy information.

According to Respondent, during on-site visits and sales process reviews, her sales manager and compliance manager became aware of Respondent providing the Agenda to clients without official pre-approval. Respondent believed that she had implicit approval. In December 2012, Respondent was notified to stop providing copies to clients prior to pre-approval. Respondent complied with this instruction.

In her January 2014 statement to CFP Board, Respondent indicated that her firm originally informed her that her Form U5 would state that the cause of her termination would be “inappropriate use of marketing materials.” Respondent stated she later discovered the above-referenced language on the final version of her Form U5. Respondent was surprised, as she believed the cut and paste violations had been resolved with her firm prior to termination.

### *2013 FINRA INVESTIGATION*

In August 2013, FINRA began an investigation of Respondent when a Principal Examiner at FINRA mailed a letter to Respondent. The Principal Examiner’s letter requested information and documentation regarding Respondent’s Agenda. In August 2013, Respondent provided details concerning her use of the Agenda. Respondent also explained how and when she used the Agenda, changes to its format, its circulation to clients and its history of review and approval by her firm. Respondent provided a sample copy of the Agenda.

According to Respondent’s June 2014 statement to CFP Board, in or around November 2013, Respondent received a phone call from the Principal Examiner inquiring about the cut and paste allegations. Respondent stated that she cooperated and answered all of his questions.

In February 2014, an Examination Manager at FINRA sent Respondent a letter, which indicated that after reviewing the report of the Staff’s investigation, her department was referring Respondent’s matter to FINRA’s Enforcement Department.

In April 2014, Respondent’s attorney submitted a detailed statement on behalf of Respondent regarding the cut and paste allegations. Respondent’s attorney stated that Respondent fully acknowledged that she made mistakes and admitted the policy violations. She readily admitted the conduct when her firm questioned her about it. Respondent’s attorney noted that the first instance of alteration occurred in December 2008 and the other incidents occurred during a two-month period in the fall of 2012.

### *Instances of signature and form alteration*

1. Respondent added the fees to the signed form, whited-out the date, and inserted a new date. Respondent’s attorney emphasized that there was no attempt to mislead the client or conceal fees – Respondent simply wanted to facilitate the transaction.
2. Mr. and Mrs. A, Respondent’s clients, set up a joint account at a broker-dealer in 2011 with a \$30,000 investment in mutual funds. Mr. and Mrs. A signed a Mutual Fund Order Form (“MFOF”). In 2012, Mr. and Mrs. A decided to invest additional funds with the broker-dealer. Mrs. A went to Respondent’s office to drop off their check and she signed a MFOF. Respondent then asked Mrs. A to take the MFOF home

to her husband to sign. Respondent did not receive the MFOF back. Respondent then received an email from her firm requesting the signed MFOF. To meet the deadline set by the home office, Respondent copied and pasted Mr. A's signature from the old MFOF onto the new MFOF to expedite the process. When the firm later questioned Respondent about the signature, Respondent acknowledged that she copied it. She then immediately obtained the signatures of both Mr. and Mrs. A on the appropriate form.

3. Mr. and Mrs. B, Respondent's clients, met with Respondent in October 2012 and decided to invest \$100,000 into mutual funds, split among four different funds. They both signed a MFOF and Respondent submitted it to her firm. The firm later notified Respondent that some information was missing from the MFOF and that she needed to use an updated version of the MFOF. In order to meet the firm's deadline, Respondent filled in the new version of the form and copied and pasted Mr. and Mrs. B's signatures onto the new version of the MFOF. When the firm inquired about the MFOF, Respondent admitted having copied the signatures. Respondent met with Mr. and Mrs. B and had them sign new MFOFs.
4. Ms. C, Respondent's client, met with Respondent in August 2012. Ms. C wanted to set up a new investment account and Respondent directed Ms. C to sign a New Account Application Form ("Application Form"). The Application Form was outdated and rejected by the firm's Home Office. To meet a deadline, Respondent copied and pasted Ms. C's signature onto an updated Application Form. Respondent also fixed an error on the Application Form. It indicated Ms. C was a student, when she was actually retired. The firm questioned Respondent about the Application Form and Respondent acknowledged she had copied and pasted Ms. C's signature. She subsequently had Ms. C sign a new form.
5. Mr. D, Respondent's client, met with Respondent in the summer or fall of 2012. She prepared a MFOF in advance of the meeting. Respondent selected Class B mutual fund shares and an investment objective of growth and income on the MFOF. During the meeting, Respondent realized that Class A shares and an objective of income were more appropriate for Mr. D. In front of Mr. D, Respondent used whiteout to change the share class and investment objective. Mr. D then signed the MFOF. The firm questioned Respondent about her use of the whiteout and she readily acknowledged using it. She subsequently had Mr. D sign the proper form.

Respondent's attorney indicated that Respondent's conduct did not directly, or indirectly result in any client harm. Each of the transactions was expressly authorized and none of the clients involved filed complaints. Respondent's attorney also pointed out that Respondent's conduct did not result in any monetary gain.

#### *2014 FINRA AWC*

In August 2014, Respondent entered into an AWC with FINRA. Respondent accepted and consented, without admitting or denying FINRA's findings:

On four occasions in 2012, Respondent copied and pasted non-genuine signatures of four separate customers on three documents, including two MFOFs and one account application.

As a result of the foregoing conduct, Respondent violated FINRA Rule 2010. Respondent consented to the imposition of the following sanctions: 1) a suspension from association with any FINRA member in any and all capacities for a period of one month; and 2) a \$5,000 fine.

Respondent's suspension will be in effect from August 2014, through September 2014.

### III. Rule Violations

- A. *Rule 102 – In the course of professional activities, a CFP Board designee shall not engage in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement to a client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity.*

Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly made a false or misleading statement to a client, employer, employee, professional colleague, governmental or other regulatory body or official, or any other person or entity when, in 2008, she altered a client's variable annuity checklist by adding fees to the signed form, whited-out the date, inserted a new date, then submitted the form to her firm representing the form as a newly executed, re-signed form. Thus, Respondent violated *Code of Ethics* Rule 102.

- B. *Rule 201 – A CFP Board designee shall exercise reasonable and prudent professional judgment in providing professional services.*

Respondent failed to exercise reasonable and prudent professional judgment in providing professional services when, in 2008, she altered a client's variable annuity checklist by adding fees to the signed form, whited-out the date, inserted a new date, then submitted the form to her firm representing the form as a newly executed, re-signed form. Thus, Respondent violated *Code of Ethics* Rule 201.

- C. *Rule 406 – A CFP Board designee shall perform professional services with dedication to the lawful objectives of the employer and/or in accordance with the Code of Ethics.*

Respondent failed to perform professional services with dedication to the lawful objectives of the employer and/or in accordance with the *Code of Ethics*, when, in 2008, she altered a client's variable annuity checklist by adding fees to the signed form, whited-out the date, inserted a new date, then submitted the form to her firm representing the form as a newly executed, re-signed form. Altering a customer's signed document was a violation of her firm's policy. FINRA assessed a \$500 fine and issued a Letter of Concern to Respondent. Thus, Respondent violated *Code of Ethics* Rule 406.

- D. *Rule 606(b) – A CFP Board designee shall perform services in accordance with applicable rules, regulations and other established policies of CFP Board.*

Respondent failed to perform services in accordance with applicable rules, regulations and other established policies of CFP Board when, in 2008, she altered a client's variable annuity checklist by adding fees to the signed form, whited-out the date, inserted a new date, then submitted the form to her firm representing the form as a newly executed, re-signed form. Altering a customer's signed document was a violation of her firm's policy. FINRA assessed a \$500 fine and issued a Letter of Concern to Respondent, in violation of Rules 102, 201, 406 and 607. Thus, Respondent violated *Code of Ethics* Rule 606(b).

- E. *Rule 607 – A CFP Board designee shall not engage in any conduct which reflects adversely on his or her integrity or fitness as a CFP Board designee, upon the marks, or upon the profession.*

Respondent engaged in conduct which reflects adversely on her integrity or fitness as a CFP Board designee, upon the marks, or upon the profession when, in 2008, she altered a client's variable annuity checklist by adding fees to the signed form, whited-out the date, inserted a new date, then submitted the form to her firm representing the form as a newly executed, re-signed form. Altering a customer's signed document was a violation of her firm's policy. FINRA assessed a \$500 fine and issued a Letter of Concern to Respondent. Thus, Respondent violated *Code of Ethics* Rule 607.

*F. 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 provided to the client when she copied and pasted non-genuine signatures of four separate customers on three documents without the customers' knowledge or consent and presented the documents as originals for processing, in violation of FINRA Rule 2010. Thus, Respondent violated *Rules of Conduct* Rule 4.3.

*G. Rule 4.4 – 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 she copied and pasted non-genuine signatures of four separate customers on three documents without the customers' knowledge or consent and presented the documents as originals for processing. Thus, Respondent violated *Rules of Conduct* Rule 4.4.

*H. Rule 5.1 – 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/principal and in accordance with CFP Board's *Code of Ethics* when she: 1) copied and pasted non-genuine signatures of four separate customers on three documents without the customers' knowledge or consent and presented the documents as originals for processing; and 2) created consolidated customer statements that were then provided to certain clients without firm pre-approval. Respondent's firm found these compliance violations to be unacceptable and terminated her for this conduct. Thus, Respondent violated *Rules of Conduct* Rule 5.1.

*I. Rule 6.5 – 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 her integrity and fitness as a certificant, upon the CFP® marks, and upon the profession when she copied and pasted non-genuine signatures of four separate customers on three documents without the customers' knowledge or consent and presented the documents as originals for processing. Thus, Respondent violated *Rules of Conduct* Rule 6.5.

#### IV. Discipline Imposed

The Commission found grounds for discipline under Articles 3(a) and 3(d) of CFP Board's *Disciplinary Rules and Procedures* ("Disciplinary Rules"). Article 3(a) of CFP Board's *Disciplinary Rules* provides grounds for discipline for any act or omission that violates the *Code of Ethics or Rules of Conduct*. The Commission found grounds for discipline under Article 3(a) because Respondent violated Rules 102, 201, 406, 606(b), and 607 of the *Code of Ethics* and Rules 4.3, 4.4, 4.6, 5.1 and 6.5 of the *Rules of Conduct*. Article 3(d) of CFP Board's *Disciplinary Rules* provides grounds for discipline for any act that is the proper basis for a professional suspension. Respondent copied and pasted non-genuine signatures of four separate customers on three documents without the customers' knowledge or consent and presented the documents as originals for processing, in violation of FINRA Rule 2010. FINRA suspended Respondent for this conduct, thereby providing grounds for discipline pursuant to Article 3(d).

CFP Board 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 six-month suspension of his CFP® certification, pursuant to Article 4.3 of the *Disciplinary Rules*.

The Commission considered in mitigation that Respondent's conduct resulted in no client harm or monetary gain and that there were no client complaints.

The Commission cited as an aggravating factor that Respondent received multiple warnings and there were disciplinary steps taken by his supervisor within a few months of the issue first arising in 2012.

The Commission did not cite any *Anonymous Case Histories* or *Sanction Guidelines* in making its decision.