

CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES  
NUMBER 29339

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This is a summary of a Settlement Agreement entered into at the February 2015 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. Rules 1.1 through 6.5 of the *Rules of Conduct* were in effect.

I. Issue Presented

Whether a CFP® professional (“Respondent”) violated CFP Board’s *Standards of Professional Conduct* when she conducted investment advisory business in State without registering as an investment advisor representative with the State Office of Financial Regulation from 2010 through 2013 in violation of State Statutes.

II. Findings of Fact

In September 2014, on behalf of Respondent, Firm disclosed to CFP Board that the State Office of Financial Regulation (“State Regulators”) issued an Order against Respondent. In September 2014, CFP Board mailed a Notice of Investigation (“NOI”) to Respondent. In October 2014, Respondent sent her response.

*Background*

Respondent is a registered representative and investment advisor representative employed by Firm. Respondent stated that she conducts business with clients in several states. Respondent said and Firm confirmed that Firm required her to rely on its Registrations Department to properly register her in the states where she conducts securities business. Respondent stated that she notified Firm in 2010 that she planned to conduct business in State. Due to an administrative error, neither Firm nor Respondent registered Respondent as an investment advisor in State from March 2010 until November 2013. In November 2013, Respondent applied for registration as an investment advisor with Firm in State. Respondent was registered at all times to sell securities in State.

*State Regulatory Action*

In August 2014, State regulators issued a Final Order adopting and incorporating a Stipulation and Consent Agreement (“Agreement”) between Respondent and State regulators. In the Agreement, Respondent agreed that she maintained dual residency in two states and conducted investment advisory business in State from March 2010 through November 2013. Respondent was not registered to engage in investment advisory business in State from March 2010 through November 2013 and violated State Statutes. State regulators fined Respondent \$5,500 and agreed to approve Respondent’s application upon payment of the fine and entry of the Final Order.

III. Rule Violation

- 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 provided to the client when she conducted investment advisory business in State without registering as an investment advisor representative with the State Office of Financial Regulation from 2010 through 2013 in violation of State Statutes. Thus, Respondent violated Rule 4.3 of the *Rules of Conduct*.

#### IV. Discipline Imposed

Article 3(a) of CFP Board's *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 Rule 4.3 of the *Rules of Conduct*. Despite its finding, the Commission declined to impose discipline because it felt that the failure to register in State was clearly the fault of her employer and that Respondent did everything in her power to comply. 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 Dismissal with Caution, pursuant to the *Disciplinary Rules*.

In reaching its decision the Commission did not cite any aggravating factors but considered in mitigation that:

1. Respondent had no prior disciplinary history;
2. Her failure to register in State was the error of her employer; and
3. Respondent self-disclosed her conduct to State regulators and CFP Board.

The Commission did not consider any Anonymous Case Histories or *Sanction Guidelines*.