CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.

ANONYMOUS CASE HISTORIES
NUMBER 29669

This is a summary of a Settlement Agreement entered into at the October 2015 hearings of the Disciplinary and Ethics Commission ("the 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 before January 1, 2009 were Rules 101 through 705 of CFP Board's *Code of Ethics and Professional Responsibility* ("*Code of Ethics*"). The Rules in effect for conduct occurring after January 1, 2009 were Rules 1.1 through 6.5 of CFP Board's *Rules of Conduct*.

I. Issue Presented

Whether a CFP® professional ("Respondent") violated CFP Board's *Standards of Professional Conduct* when he filed for Chapter 13 Bankruptcy in 1995 and again in 2015.

II. Findings of Fact

In January 1995, Respondent filed a Chapter 13 Petition for Bankruptcy in the U.S. Bankruptcy Court, of State. The Court discharged Respondent's bankruptcy in August 1998. According to Respondent, the 1995 Bankruptcy involved circumstances similar to those of the 2015 Bankruptcy, except that he and his wife did not own their home at the time. Respondent stated that no clients or business vendors were involved in either Bankruptcy. Respondent added that the reason for the 1995 Bankruptcy was an excess of debt for the income level at that time.

In March 2015, Respondent filed a Chapter 13 Petition for Bankruptcy in the same court in which he filed his 1995 Petition. This Bankruptcy was pending. According to Respondent, in 2009, he and his wife were doing well in managing debt and minimizing tax liabilities. Respondent's wife then lost her job, which had been providing steady cash flow for the couple. At that time, Respondent's income was not stable. Respondent's wife learned that due to the job market and her age, obtaining another full-time position would be difficult. Respondent believed he and his wife did all they could to avoid filing for bankruptcy again, including negotiating with creditors and making payment arrangements. These actions helped, but were not enough to compensate for his wife's loss of income. Respondent's only debt that was in excess of $15,000 was from their credit card and the federal income tax liabilities.

III. Grounds for Discipline

First Ground for Discipline

Pursuant to Article 3(a) of the *Disciplinary Rules*, there are grounds to discipline Respondent for acts or omissions that violate Rule 607 of the *Code of Ethics*, which provides that a certificant 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, a certificant, engaged in conduct that reflects adversely on his integrity and fitness as a CFP Board designee, upon the marks, and upon the profession when, in 1995, he filed a Chapter 13 Petition for Bankruptcy. Respondent's filing demonstrated an inability to manage his personal finances. As a result, Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP Board designee, upon the marks, and the profession.

Second Ground for Discipline

Pursuant to Article 3(a) of the *Disciplinary Rules*, there are grounds to discipline Respondent for acts or omissions that violate Rule 6.5 of the *Rules of Conduct*, which provides that 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. As a CFP® professional, Respondent is held to a higher standard of care than the average business professional. In 2015, Respondent filed for Chapter 13 Bankruptcy. This Bankruptcy was his second filing in 20 years, demonstrating a continued inability to manage his personal finances. As a result, Respondent engaged in conduct that reflects adversely on his integrity and fitness as a CFP Board designee, upon the marks, and the profession.

IV. <u>Discipline Imposed</u>

The Commission found grounds for discipline under Article 3(a) because Respondent violated Rule 607 of the *Code of Ethics* and Rule 6.5 of the *Rules of Conduct.* 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*.

In addition to the Public Letter of Admonition. Respondent must complete six hours of Continuing Education in addition the required hours to maintain certification. Of the six hours, four (4) hours must be in General Principles of Financial Planning and two (2) must be in Professional Conduct and Fiduciary Responsibility.

The Commission identified as a mitigating factor that Respondent filed for Chapter 13 bankruptcy, which allowed him to repay at least a portion of his debts.

The Commission identified as an aggravating factor that both bankruptcy filings occurred while Respondent was a CFP® professional.

The Commission consulted *Sanctions Guidelines* 1 (Bankruptcy: Two or More Personal or Business Bankruptcies). The Commission also consulted Anonymous Case Histories 28337, 27018 and 28694.