



REPORT ON DISCIPLINARY ACTION

Details of Hearing: Brinson, R. Bruce CFP® (Halifax, NS) and Gentile, Gabriele CFP® (Halifax, NS)

On July 26, 2017, a Financial Planning Standards Council (FPSC®) Discipline Hearing Panel considered a Joint Settlement Agreement between FPSC and R. Bruce Brinson, CFP and Gabriele Gentile, CFP.

Background

Mr. Brinson and Mr. Gentile were each certified by FPSC as CERTIFIED FINANCIAL PLANNER® certificants in 1996.

In 2015, a Mutual Fund Dealers Association of Canada (MFDA) Hearing Panel found that, between 2007 and 2009, Mr. Brinson and Mr. Gentile failed to report relevant information to the Head Office of Desjardins Financial Securities Investments Inc. (“Desjardins”). In March 2016, the MFDA Hearing Panel imposed, among other penalties, a fine of \$10,000 on each of Mr. Brinson and Mr. Gentile.

On at least five occasions between 2007 and 2009, Mr. Brinson and/or Mr. Gentile received information that an investment advisor working at the Desjardins branch overseen by them, had borrowed monies from clients that had not been repaid. In 2015, the advisor (not an FPSC certificant) pleaded guilty to one charge of fraud over \$5,000 involving 22 victims who lost a combined \$1,054,986 over a six-year period (2003 to 2009). Mr. Gentile had an ownership interest in the Desjardins branch office and was the Primary Branch Manager and a minority shareholder, during the relevant time. Mr. Brinson had an ownership interest in the Desjardins branch office and was a co-Branch Manager or Alternate Branch Manager, the Managing Director of the branch and a majority shareholder, during the relevant time.

Neither Mr. Brinson nor Mr. Gentile reported the investigation, proceedings or decision by the MFDA to FPSC, as required.

Procedural History

FPSC commenced separate investigations into Mr. Brinson’s and Mr. Gentile’s conduct in May 2016.

In March 2017, FPSC’s Conduct Review Panel directed that the FPSC complaints in respect of Mr. Brinson’s and Mr. Gentile’s conduct as CFP professionals, be referred to a Discipline Hearing Panel. On consent of all parties, the proceedings in respect were joined and a single hearing date set.

The FPSC Discipline Hearing Panel convened on July 26, 2017 to consider a proposed Joint Settlement Agreement between FPSC and Mr. Brinson and Mr. Gentile. The Hearing Panel issued Disciplinary Hearing Decision and Reasons dated July 28, 2017.

Applicable Standard

Mr. Brinson and Mr. Gentile's conduct occurred between 2007 and 2009. The *CFP™ Code of Ethics* was in force from April 2005 to November 2011. The *Standards of Professional Responsibility for CFP® Professionals and FPSC® Registered Candidates* came into effect in November 2011 and remained in effect until September 2014.

<p>Principle 1: Integrity</p> <p>A CFP professional shall always act with integrity.</p> <p>CFP professionals may be placed by clients in positions of trust and confidence. The ultimate source of such public trust is the CFP professional's personal integrity. In deciding what is right and just, a CFP professional should rely on his or her integrity as the appropriate touchstone. Integrity demands honest and candour that must not be subordinated to personal gain and advantage. Within the characteristics of integrity, allowance can be made for legitimate difference of opinion; but integrity cannot co-exist with deceit or subordination of one's principles. Integrity requires the CFP professional to observe not only the letter but also the spirit of this Code.</p>	
<p>Principle 6: Professionalism</p> <p>A CFP professional's conduct in all matters shall reflect credit upon the profession.</p> <p>A CFP professional shall behave in manner that maintains the good reputation of the profession and its ability to serve the public interest. A CFP professional shall avoid activities that adversely affect the quality of his or her financial planning advice.</p>	
<u>Rule 101</u>	A CFP professional shall not engage in or associate with conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement.
<u>Rule 601</u>	A CFP Professional shall not engage in any conduct that reflects adversely on his or her integrity or fitness as a CFP professional, upon the Marks, or upon the profession.
<u>Rule 605</u>	A CFP professional who has knowledge that raises a substantial question of unprofessional, fraudulent or illegal conduct by a CFP professional or other financial professional, shall promptly inform the appropriate regulatory and/or professional disciplinary body. This rule does not require disclosure or reporting of information gained as a consultant or expert witness in anticipation of, or related to litigation or other dispute resolution mechanisms. For purposes of this Rule, knowledge means no substantial doubt.
<u>Rule 606</u>	A CFP professional who has reason to suspect illegal conduct within the CFP professional's organization shall make timely disclosure of the available evidence to the CFP professional's immediate supervisor and/or partners or co-owners. If the CFP professional is convinced that illegal conduct exists within the CFP professional's organization, and that appropriate measures are not taken to remedy the situation, the CFP professional shall, where appropriate, alert the appropriate regulatory authorities including FPSC in a timely manner.
<p>Applicable Rules of the <i>Standards of Professional Responsibility for CFP Professionals and FPSC Level 1® Certificants in Financial Planning</i></p>	
<u>Rule 25</u>	A CFP professional shall not make any false or misleading statement to FPSC whether or not in the course of investigating a complaint.

FPSC Hearing Panel Decision

In executing the Settlement Agreement with FPSC, Mr. Brinson and Mr. Gentile each admitted that they engaged in professional misconduct by:

- Failing to act on information and/or being willfully blind, and thereby failing to prevent harm to clients of the Desjardins branch;
- Allowing an advisor working at the branch to engage in fraudulent conduct;

- Failing to act with integrity;
- Failing to act with professionalism; and
- Failing to report an investigation into their conduct by a financial services regulator and a disciplinary finding against them by a financial services regulator, to FPSC in a timely manner.

The Hearing Panel accepted the Joint Settlement Agreement filed by the parties and found that Mr. Brinson and Mr. Gentile engaged in misconduct. The Hearing Panel further found that Mr. Brinson and Mr. Gentile each breached Principle 1 and 6 and Rules 101, 601, 605 and 606 of the *Code of Ethics* and Rule 25 of the *Standards of Professional Responsibility*.

In determining that Joint Settlement Agreement was reasonable, the Hearing Panel noted, among other things, that:

- Neither Mr. Brinson nor Mr. Gentile have a discipline history with FPSC and prior to the events that gave rise to the proceedings both were CFP professionals in good standing.
- The events that gave rise to the proceedings occurred from 2003 to 2009 and since that time both Mr. Brinson and Mr. Gentile have been CFP professionals in good standing with no discipline history.
- Neither Mr. Brinson nor Mr. Gentile benefitted financially from the events that gave rise to the proceeding.
- Mr. Brinson and Mr. Gentile cooperated with FPSC's investigation into their conduct.

The Hearing Panel determined that the Joint Settlement Agreement was reasonable and should be accepted in accordance with Article 6.8 of the *FPSC Disciplinary Rules and Procedures*.

The Panel accepted the joint submissions with respect to Penalty and Ordered that:

- a. Mr. Brinson's CFP certification and entitlement to use the CFP Certification Marks be suspended for a period of four (4) months commencing August 1, 2017, and ending December 1, 2017;
- b. Mr. Gentile's CFP certification and entitlement to use the CFP Certification Marks be suspended for a period of four (4) months commencing August 1, 2017, and ending December 1, 2017;
- c. During the four (4) month suspension, Mr. Brinson shall cease to use the CFP Certification Marks in all correspondence and representations of himself. Further, Mr. Brinson will not hold himself out to clients or the public as a CFP professional or certificant of FPSC;
- d. During the four (4) month suspension, Mr. Gentile shall cease to use the CFP Certification Marks in all correspondence and representations of himself. Further, Mr. Gentile will not hold himself out to clients or the public as a CFP professional or certificant of FPSC;
- e. Prior to December 1, 2017, in addition to completing the 25 hours of Continuing Education (CE) activities required of every FPSC certificant, Mr. Brinson and Mr. Gentile shall each, at their own expense, successfully complete an additional:
 - i. One (1) hour of FPSC-accredited CE in the category of Professional Responsibility; and

- ii. Ten (10) hours of FPSC-accredited CE in the categories of Financial Planning and/or Practice Management.
- f. Mr. Brinson and Mr. Gentile shall provide proof of completion of the 25 hours of CE and the further CE requirements detailed above, to FPSC by December 1st, 2017;
- g. Mr. Brinson shall pay costs to FPSC of \$1,000.00 on or before December 1, 2017;
- h. Mr. Gentile shall pay costs to FPSC of \$1,000.00 on or before December 1, 2017;
- i. Having complied with the above-enumerated terms, Mr. Brinson shall be eligible for recertification as a CFP professional, on December 1, 2017; and
- j. Having complied with the above-enumerated terms, Mr. Gentile shall be eligible for recertification as a CFP professional, on December 1, 2017.

Update: October 31, 2017

Mr. Brinson & Mr. Gentile have each complied with paragraphs “e”, “f”, above, by successfully completing the Continuing Education credits as directed by the Discipline Hearing Panel. In addition, Mr. Brinson has complied with paragraph “g” above, by paying the costs awarded to FPSC, and Mr. Gentile has complied with paragraph “h”, above, by paying the costs awarded to FPSC.