



## REPORT ON DISCIPLINARY ACTION

Details of Hearing: English, Tod (Powell River, BC)

In April 2016, FPSC's Disciplinary Hearing Panel (the "Hearing Panel") considered the matter identified as the *Financial Planning Standards Council and Tod English*.

Tod English was certified by the Financial Planning Standards Council (FPSC®) as a CERTIFIED FINANCIAL PLANNER® in 2005 and his certification remained in good standing with FPSC until March 2015 when it lapsed due to voluntary nonrenewal.

This matter came to FPSC's attention as a result of a complaint by Mr. English's former clients, identified herein as "the Ms". Mr. English was engaged as the Ms' financial planner from in or around 1999 to in or around 2008.

FPSC and Mr. English filed a Joint Settlement Agreement with the Hearing Panel. The Joint Settlement Agreement included the following admissions:

- Mr. English failed to disclose, in writing to his clients, that his and his wife's financial interest in the success of his clients' corporations as lenders, through corporations owned or controlled by them, gave rise to a potential conflict of interest as between Mr. English and his clients;
- Mr. English's direct financial interest in his clients' business created a conflict of interest;
- Mr. English inappropriately intervened in his client's business affairs; and
- Mr. English failed to act with integrity and engaged in conduct which reflected adversely on his integrity and fitness as a CFP professional.

The conduct particularized in the Joint Settlement Agreement occurred between 2005 and 2008 and was, accordingly, governed by the FPSC *Code of Ethics* (the "Code") in force from April 2005 until November 2011.

Mr. English acknowledged that his conduct breached:

- Principles 1, 4 and 6 of the *Code*; and
- Rules 302, 401, 403 and 601 of the *Code*.

The Panel accepted the Joint Settlement Agreement submitted by FPSC and Mr. English and found that Mr. English:

- a. Breached rules 401 and 403 of the *Code* contrary to Principle 4 by:
  - i. Failing to disclose, in writing to his clients, that his and his wife's financial interest in the success of the Ms' corporations as lenders, through corporations owned or controlled by Mr. English and/or his wife, gave rise to a potential conflict of interest between Mr. English and his clients. Mr. English should have been aware that his interest as both advisor and financier placed him in this situation. Rules 401, 403, and Principle 4 are designed to prevent conflicts such as these.
- b. Breached rule 601 of the *Code* contrary to Principles 1 and 6 by:
  - i. Failing to act with integrity and engaging in conduct involving dishonesty which this conduct reflects adversely on his integrity of fitness as a CFP professional.

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Having accepted the Joint Settlement Agreement filed by the parties, the Hearing Panel issued the following Order with respect to Penalty dated May 16, 2016:

1. Mr. English is prohibited from seeing recertification as a CERTIFIED FINANCIAL PLANNER® for a period of two (2) years commencing on May 1, 2016 and ending on April 30, 2016.
2. Mr. English shall pay costs to FPSC in the amount of \$2,000.00 which costs are payable as follows:
  - i. \$1,000.00 on or before June 1, 2016; and
  - ii. \$1,000.00 on or before August 1, 2016.
3. In 2016, at his own cost, Mr. English shall complete 25 credit-hours of FPSC-Approved continuing education (CE) credits including:
  - i. A minimum of 10 FPSC-Approved CE credits in the area of Financial Planning; and
  - ii. A minimum of 1 FPSC-Approved CE credit in the area of Professional Responsibility.

The remaining FPSC-Approved CE Credit hours may be obtained in any of the categories in the FPSC Continuing Education guidelines. Mr. English shall provide proof of completion to FPSC on or before December 31, 2016.

4. Between January 2017 and December 2017, at his own cost, Mr. English shall complete 25 credit-hours of FPSC-Approved CE credits including:
  - i. A minimum of 10 FPSC-Approved CE credits in the area of Financial Planning; and
  - ii. A minimum of 1 FPSC-Approved CE credit in the area of Professional Reasonability.

The remaining FPSC-Approved CE Credit hours may be obtained in any of the categories in the FPSC Continuing Education guidelines. Mr. English shall provide proof of completion to FPSC on or before December 31, 2017.

5. Between May 2016 and December 2017, at his own cost, Mr. English shall complete an additional 4 hours of FPSC-Approved CE credits in the area of Professional Responsibility and provide proof of completion to FPSC on or before December 31, 2017;
6. Having complied with the terms of this Order and having submitted the appropriate application and paying the associated recertification fee, Mr. English shall be eligible to apply for recertification on May 1, 2018.