



Guidance

Anonymous Case Histories – 1

Code Provisions: **FPSC's Rules of Conduct, Rule 12**

Issue: Whether the CERTIFIED FINANCIAL PLANNER® professional violated Rule 12 of the FPSC® Rules of Conduct ("Rules") by inadequately supervising a subordinate when client services were provided by an account representative to his family members.

Background: A complainant alleged that he had engaged in a leveraged investments program based on a seminar that has been hosted by a CFP professional. The complainant alleged that he lost money and that the investment strategy was unsuitable for someone of his net worth, investment knowledge and age. At the time of entering into the leveraged investment program, the complainant was a 20 year old man living with his parents. His net worth was insubstantial. The investment strategy met reasonable criteria for suitability.

In response to the complaint, the CFP Professional noted that the execution of transactions for implementing the leveraged investment strategy predated the seminar. The CFP professional also asserted that the seminar did not address leveraged investing and contained disclaimers directing participants to seek their own professional advice.

Notwithstanding the identification of the CFP professional as the financial advisor on communications to the complainant from the CFP professional's firm, the client relationship between the complainant and the CFP professional's firm was in fact conducted by the complainant's brother, a former employee of the CFP professional.

The complaint was made shortly after the CFP professional terminated the complainant's brother's employment for cause. The CFP professional and the complainant agreed that there had never been any substantive contact between them.

Conduct Review Panel's Decision:

The Conduct Review Panel (the "CRP") considered the circumstances of the conduct that led to the complaint against the CFP professional, including mitigating or aggravating factors, and also took into consideration whether the broader public interest may have been affected by the CFP professional's actions. The CRP determined that it was appropriate and in the public interest, to provide guidance and advice to assist the CFP professional with respect to the exercise of appropriate supervision of subordinates, particularly in the context of family relationships.

Anonymous Case Histories – 2

Code Provisions: **FPSC Fitness Standards, FPSC's Rules of Conduct: Rule 2 and 18**

Issue: Whether, having received and considered a request for reconsideration, the CERTIFIED FINANCIAL PLANNER® will be barred from remaining certified in accordance with the FPSC® Fitness Standards.

Background: A complainant was filed by FPSC following its review of a financial industry regulator's decision, in which a CFP professional was found to have engaged in a course of conduct including creating and relying on a forged document (namely, a course completion certificate) which resulted in, together with monetary penalties, a suspension of the CFP professional's financial services license/registration.

Pursuant to FPSC Fitness Standards, Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1™ Certificants in Financial Planning, a revocation or suspension of financial services license or registration (unless administrative in nature) is considered unacceptable and may bar an individual from becoming or remaining certified by FPSC.

In the request for reconsideration, the CFP professional accepted responsibility for the misconduct and advised that he had subsequently completed the course (initially, the CFP professional wrote and passed the final exam without completing all of the component modules; he subsequently completed the modules as required) and had since complied fully with the terms of the Order imposed by the financial industry regulator. The CFP professional also asserted that no clients were harmed and that the conduct was a result of a lapse in judgement.

Conduct Review Panel's Decision:

The CRP considered the circumstances of the conduct that gave rise to the presumptive bar to certification, the CFP professional's request for reconsideration, and whether the broader public interest may have been affected by the CFP professional's actions.

The CRP determined the certification with FPSC will be allowed. In notifying the CFP of its decision, the CRP reminded the CFP professional of his professional obligations pursuant to Rule 2 and 18 of the FPSC® Rules of Conduct, which provide:

Rule 2 - A CFP professional shall not engage in any conduct that reflects adversely on his or her integrity or fitness as a CFP professional, the CFP marks or the profession.

Rule 18 - A CFP professional shall perform financial planning in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities including FPSC.

Anonymous Case Histories – 3

Code Provisions: **FPSC's Rules of Conduct, Rule 12**

Issue: Whether the CERTIFIED FINANCIAL PLANNER® professional engaged in conduct contrary to Rule 12 of the FPSC® Rules of Conduct ("Rules") by failing to adequately supervising a subordinate advisor's activities.

Background: A complainant was filed by FPSC following its review of a financial industry regulator's decision, in which a CFP professional, a Branch Manager, was found to have failed to actively supervise an advisor's activities and client accounts managed by the advisor.

The client's margin account was unsuitable, overly concentrated in the income trust and/or energy/resource sector and held excessive amount of medium/high and high risk securities. In addition, changes were made to the clients' risk profile on two occasions without the clients' knowledge or consent. The clients suffered losses.

There was no evidence that the CFP professional was actively supervising the advisor's activities or the client accounts managed by the advisor. The CFP professional failed to act on a number of "red flags", question the advisor, and/or taking steps to ensure that changes made by the advisor were appropriate and authorized by the clients.

Conduct Review Panel's Decision:

The Conduct Review Panel (the "CRP") determined that it was appropriate and in the public interest, to provide guidance and advice to the CFP professional with respect to the exercise of appropriate supervision of subordinates.