

REPORT ON DISCIPLINARY ACTION

Details of Hearing: John Paul Sanchez (Toronto, ON)

On June 24, 2019, an FP Canada Standards Council™ Discipline Hearing Panel found that John Paul Sanchez breached the *CFP® Code of Ethics and Rules of Conduct* and on September 11, 2019, ordered, among other penalties, a permanent ban on Mr. Sanchez seeking renewal or reinstatement of his CFP certification and from using the CFP Certification Marks.

Background

Mr. Sanchez was certified by FP Canada™, then the Financial Planning Standards Council (FPSC®), as a CERTIFIED FINANCIAL PLANNER® professional between April 1998 and March 31, 2018, when his certification lapsed due to voluntary non-renewal. He does not have a prior discipline history with the Standards Council.

In April 2017, the Standards Council instructed an investigation into Mr. Sanchez's conduct, following review of a news release issued by another financial services regulator.

Underlying Conduct

Through holdings companies, Mr. Sanchez and his family own approximately 75% of the shares in Invoice Payment Systems Corporation ("IPS"), a factoring company that purchased receivables at a discount, intending to collect the full value. Mr. Sanchez and his family also owned approximately 33% of Energentium Inc. ("Energentium"), a waste management company. In addition to owning shares in Energentium, Mr. Sanchez was also the President of Energentium from 2012 to 2018.

Between 2005 and 2016, Mr. Sanchez sold or facilitated the sale of at least \$25.8 million dollars of investments (promissory notes) distributed by a non arms-length company, IPS, to at least 170 of his clients. In addition, between 2012 and 2016, Mr. Sanchez sold or facilitated the sale of at least \$1.64 million of investments (promissory notes) in Energentium to approximately 21 of his clients.

Mr. Sanchez recommended the IPS and Energentium notes to clients without: conducting adequate due diligence; identifying and/or appropriately disclosing the risks associated with the products; and without identifying the compensation received as a result of the recommendation, to his clients. Mr. Sanchez acted in a conflict of interest and failed to make written disclosure of the conflict to his clients. Further, Mr. Sanchez breached an undertaking given to the Mutual Fund Dealers Association of Canada (MFDA) in which he agreed to advise his clients, in writing, about: the high-risk nature of the IPS/Energentium promissory notes; the amount of compensation he would receive; and the potential/actual conflicts of interest given his relationship with IPS/Energentium.

Applicable Standard

The underlying conduct took place between September 2005 and February 2017. Accordingly, his conduct was governed by the:

- *CFP™ Code of Ethics*, in force from April 2005, with a format update in January 2010 until November 2011;
- The *FPSC® Code of Ethics and Rules of Conduct*, in force from November 2011 to November 2014; and
- The *Code of Ethics and Rules of Conduct*, in force from November 2014 to June 2017

FP Canada Standards Council Hearing Panel Decision

The Hearing Panel considered written submissions from the Standards Council and Mr. Sanchez.

In accordance with Article 7.2 of the *Disciplinary Rules and Procedures*, the Hearing Panel determined that Mr. Sanchez engaged in misconduct. In reaching this conclusion, the Hearing Panel noted, among other things, that:

- Mr. Sanchez failed to provide any evidence that the purchasers of the Notes were informed of how their money was invested, or the compensation that Mr. Sanchez would receive; and
- Breaching an agreement with a regulator reflects poorly on the profession.

On June 24, 2019, the Hearing Panel found that, among other things, that Mr. Sanchez:

- Acted in a conflict of interest and failed to make written disclosure of the conflict to his clients, contrary to Principles 1 and 5 of the 2011 to 2017 *Code of Ethics*, and Rules 8, 9 and 10 of the 2011 to 2017 *Rules of Conduct*;
- Failed to obtain the clients' written consent to continue acting in the face of a conflict of interest, contrary to Rule 8.1 of the 2015 to 2017 *Rules of Conduct*;
- Failed to act with integrity and professionalism contrary to Principles 1 and 6 and Rules 101 and 601 of the 2005 to 2011 *Code of Ethics*, Principles 2 and 8 of the 2011 to 2017 *Code of Ethics*, and Rules 1 and 2 of the 2011 to 2017 *Rules of Conduct*;
- Failed to provide financial services in a diligent manner, contrary to Principle 7 and Rule 703 of the 2005 to 2011 *Code of Ethics*, and Principle 7 of the 2011 to 2017 *Code of Ethics*; and
- Failed to perform financial planning in accordance with applicable laws, rules, regulations and established policies of governmental agencies or other applicable

authorities, contrary to Rule 607 of the 2005 to 2011 *Code of Ethics*, and Rule 18 of the 2011 to 2017 *Rules of Conduct*.

On September 11, 2019, the Hearing Panel Ordered that:

- Mr. Sanchez be permanently banned from seeking renewal or reinstatement of his CFP certification with FP Canada;
- Mr. Sanchez be permanently banned from using the CFP Certification Marks; and
- Mr. Sanchez pay costs to FP Canada in the amount of \$5,141 on or before December 11, 2019.