

REPORT ON DISCIPLINARY ACTION

Details of Hearing: Michael Kidman (Barrie, ON)

On March 25, 2022, a FP Canada Standards Council™ Discipline Hearing Panel (the “Hearing Panel”) accepted a Joint Settlement Agreement between the FP Canada Standards Council (the “Standards Council”) and Michael Kidman. The Panel ordered, among other penalties, that Mr. Kidman’s certification and entitlement to use the CFP® certification marks be suspended for a period of four (4) months, ending on July 24, 2022. The Panel also ordered that Mr. Kidman complete additional Continuing Education (“CE”) credits and pay costs to FP Canada™.

Background

Mr. Kidman was certified by FP Canada, then the Financial Planning Standards Council (FPSC®), as a CERTIFIED FINANCIAL PLANNER® professional in November 2007. Mr. Kidman has consistently renewed his certification and does not have a disciplinary history with FP Canada.

In 2019, the Standards Council received four (4) complaints involving six (6) former clients of Mr. Kidman. Between September and November 2019, the Standards Council initiated four (4) separate, but concurrent, investigations into Mr. Kidman’s conduct, including whether he acted in a conflict of interest.

Admitted Conduct

In a Settlement Agreement with the Standards Council, Mr. Kidman admitted, and the Hearing Panel found, that:

- Between November 2007 and August 2019, Mr. Kidman acted as the financial planner for his then common-law spouse, her parents, sister and brother-in-law, without disclosing the conflict of interest created by virtue of their relationships and, in some instances, joint financial holdings, and thereby failed to put his clients’ interests first, acted in conflicts of interest and failed to make written disclosure of the conflicts, contrary to Rules 202, 401 and 403 of the *Code of Ethics* in force between April 2005 and October 2011; Rule 7 of the *Standards of Professional Responsibility* (“*Standards*”) in force between January and December 2019; Principle 1 and Rule 8 of the *Standards* in force between November 2011 and December 2019; and Rule 8.1 of the *Standards* in force between June 2015 and December 2018.

The Hearing Panel considered, the fact that Mr. Kidman was an experienced financial planner, who worked in the financial services industry since 1994, and should have been aware of his disclosure obligations to be an aggravating factor.

The Hearing Panel noted, among others, the following mitigating factors:

- Mr. Kidman does not have a disciplinary history with the FP Canada Standards Council;
- he was both cooperative and forthcoming in the investigation process;
- While his non-disclosure amounted to misconduct, the facts do not suggest there was any intentional dishonesty or purposeful withholding, or misleading conduct;
- This was a long-standing client relationship and there was no evidence of client harm;
- He did not gain any financial, or other type of benefit from the lack of disclosure;
- Mr. Kidman's integrity and fitness as a CFP is not an issue or being questioned;
- The only allegation before the Hearing Panel related to the failure to disclose a conflict of interest;
- The sole allegation against Mr. Kidman was non-disclosure of the conflict of interest that results from having family members as client and the complainants did have an implicit understanding of this conflict of interest.

FP Canada Standards Council Hearing Panel Decision

The Hearing Panel determined that the Joint Settlement Agreement and proposed penalty were reasonable and should be accepted in accordance with Article 8.2 of the *Disciplinary Rules and Procedures*. The Hearing Panel accepted the joint proposed penalty and, on March 25, 2022, ordered that:

- Mr. Kidman shall be suspended for a period of four (4) months ending on July 24, 2022;
- Mr. Kidman shall cease using the CFP certification marks in all correspondence and representations of himself and shall not hold himself out to clients or the public as a CFP professional or certificant of FP Canada;
- In addition to completing the annual Continuing Education ("CE") hours required of every CFP professional, prior to reinstatement, Mr. Kidman shall, at his own expense, successfully complete the FP Canada Institute™ course titled "Creating Transparency and Avoiding Conflicts";
- Mr. Kidman shall pay costs to FP Canada in the amount of \$2,500 by May 25, 2022; and

- Mr. Kidman shall provide proof of successful completion of the CE activities and costs described above to the Standards Council as preconditions to recertification.