

# DISCIPLINARY HEARING DECISION AND REASONS

*IN THE MATTER OF FP CANADA STANDARDS COUNCIL™*

*AND*

*CLINTON ORR*

Proceeding format: Matter heard in writing

Date of deliberation: February 9, 2022

Date of decision: March 3, 2022

Hearing Panel: **FP Canada Standards Council Discipline Hearing Panel**  
Stuart Dollar, CFP®, LL.B. Chair of the Hearing Panel  
Craig Noon-Ward, CFP®  
Karen Manarin, LL.B.

Tamara Center, L.L.B, for FP Canada Standards Council

Patrick J. Rykes, for Clinton Orr

Natasha Danson, L.L.B, Independent Legal Counsel to the Hearing Panel

Jignasa Patel, Secretary to the Hearing Panel

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1. The FP Canada Standards Council Discipline Hearing Panel (the “Panel” or “Hearing Panel”) held a written hearing on February 9, 2022 to consider allegations of misconduct against Clinton Orr. The Panel considered the Joint Settlement Agreement (the “JSA” or the “Settlement Agreement”) filed by the parties, as well as the parties’ written submissions.
2. The Panel notes that the hearing was governed by the Disciplinary Rules and Procedures that had come into effect on February 1, 2022. The Panel also noted that the JSA had been entered into by the parties when the previous version of the Disciplinary Rules and Procedures were in effect. Some of the Rules referenced in the JSA are therefore to the

previous version of the Disciplinary Rules and Procedures; this had no effect on the substance of the JSA or on our decision.

3. The matter involves allegations that Mr. Orr intentionally changed client telephone numbers in his employer's database before moving to another employer. After moving to the new employer he also used personal or confidential client information obtained from his former employer without the written consent of the clients. It is also alleged that Mr. Orr provided misleading information to FP Canada. Mr. Orr was subject to proceedings by the Investment Industry Regulatory Organization of Canada ("IIROC") and in that context admitted to having engaged in conduct unbecoming.
4. The allegations against Mr. Orr were set out in the Statement of Allegations dated August 24, 2021, as follows:
  - i. Between November 2017 and May 2018, the Respondent intentionally changed client phone numbers in his employer's database, in order to gain a competitive advantage before moving to another employer, thereby engaging in conduct contrary to Principles 2 and 8 and Rules 1, 2 and 14 of the Standards of Professional Responsibility in force between June 2017 and December 2018.
  - ii. In or about May 2018, when resigning from his employer, the Respondent used personal or confidential client information without the written consent of the clients, thereby engaging in conduct contrary to Rule 21 of the Standards of Professional Responsibility in force between June 2017 and December 2018.
  - iii. In or about January 2019, the Respondent included misleading information with his 2019/2020 CFP Renewal Application which he submitted to FP Canada, thereby engaging in conduct contrary to Principles 2 and 8 and Rule 35 of the Standards of Professional Responsibility in force between January 2019 and March 2019.
  - iv. In or about December 2019, the Respondent admitted to contravening IIROC Consolidated Rule 1400 (engaging in conduct unbecoming) and thereby failed to provide professional services in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities,

contrary to Rule 24 of the Standards of Professional Responsibility in force between April 2019 and December 2019.

## JOINT SETTLEMENT AGREEMENT

5. The parties filed with the Panel a copy of the Settlement Agreement, which is attached as **Schedule A**.

## ACKNOWLEDGEMENTS

6. The Panel notes in particular the following acknowledgements that Mr. Orr made in the Settlement Agreement:

### Execution of the Agreement

- Mr. Orr has carefully reviewed the Settlement Agreement and has had the benefit of legal counsel.
- Mr. Orr has signed the Settlement Agreement voluntarily and without duress.
- The parties agreed that the Settlement Agreement would be filed with the Hearing Panel.
- Mr. Orr understands that because he has signed the Settlement Agreement, the FP Canada Standards CouncilTM (“FPSC”) will not have to prove the admitted facts or the admitted particulars through a full hearing. Instead, the Panel will be asked to make a finding of misconduct based on the Settlement Agreement.
- Mr. Orr understands that the decision and reasons in this matter, as well as the summary of the decision, will be published.

### Jurisdiction

- Mr. Orr accepts the jurisdiction of this Panel to make a finding of misconduct and, where a finding of misconduct has been made, to impose a penalty, all in accordance with the Disciplinary Rules and Procedures.
- Mr. Orr understands that the Panel will review the Settlement Agreement having regard to the Disciplinary Rules and Procedures, and that the Panel has the authority to

reject the Settlement Agreement and/or to request amendments to the Settlement Agreement.

#### Waiver of Appeal

- Mr. Orr is aware of his right to appeal a decision of the Hearing Panel and, by executing the Settlement Agreement, voluntarily waives such right upon acceptance of the Settlement Agreement by the Panel.

#### **DECISION AND REASONS**

7. Pursuant to Article 5.11 of the Disciplinary Rules and Procedures, the “Hearing Panel shall review the Settlement Agreement and, unless the Hearing Panel considers the terms of the Settlement Agreement to be inappropriate in the circumstances, shall make an order consistent with the agreed terms of the Settlement.”
8. The Panel acknowledges that a joint settlement should only be rejected if the settlement would bring the administration of justice into disrepute or would otherwise be contrary to the public interest. In *R. v. Anthony Cook*, 2016 SCC 43, the Supreme Court of Canada explained that to meet this test, the settlement must be “so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down.”
9. The Panel accepts the Settlement Agreement, and for reasons which follow concludes that accepting it would not be inappropriate in the circumstances.
10. Mr. Orr was certified by the Financial Planning Standards Council®, now FP Canada, as a Certified Financial Planner® on May 1, 2009. He commenced his career with Bieber Securities Inc. in 2003. Later, he became an employee of National Bank when National Bank acquired Bieber Securities Inc. in 2008.

11. Mr. Orr is registered as a dealing representative in several provinces. He also held an insurance licence from 2010 to January 2020.
12. Mr. Orr left National Bank in May 2018 to work as a portfolio manager with Canaccord Genuity Wealth Management (“Canaccord”).
13. In the context of the IIROC proceedings, Mr. Orr admitted that for an approximately 6-month period between November 2017 and May 2018, while an employee of National Bank, he changed telephone contact information for 394 National Bank clients in National Bank’s internal database. He admitted that he did so to “impede and delay National Bank’s ability to communicate with his former clients and so that he could gain a competitive advantage in retaining the clients.” (JSA, 23)
14. Based on the facts admitted in the JSA, the Panel concludes that the facts alleged in Allegation 1 have been proven: “Between November 2017 and May 2018, the Respondent intentionally changed client phone numbers in his employer’s database, in order to gain a competitive advantage before moving to another employer.” The Panel finds this was contrary to Principles 2 and 8 and Rules 1, 2 and 14 of the Standards of Professional Responsibility in force between June 2017 and December 2018.
15. Mr. Orr also admitted to taking a printout containing confidential client information from National Bank. (JSA, 25) He admitted to using this document to contact some of his clients after departing from National Bank. (JSA, 25)
16. The JSA does not contain a specific factual admission from Mr. Orr that he took the printout or used it without his clients’ written consent. However, the Panel infers from Mr. Orr’s admission – that he was trying to obtain a competitive advantage over National Bank by taking the printout and falsifying client records – that he took the printout without written client consent. Mr. Orr has also admitted that his conduct amounted to use of personal or confidential client information without the written consent of the clients. (JSA, 26) The Panel

infers from this admission that the “personal or confidential client information” referred to in Mr. Orr’s admission was the printout.<sup>1</sup>

17. Based on the above admitted facts the Panel concludes that Mr. Orr used personal or confidential client information without the written consent of the clients, thereby engaging in conduct contrary to Rule 21 of the Standards of Professional Responsibility in force between June 2017 and December 2018, as set out in Allegation 2. As such, the Panel concludes that the facts alleged in Allegation 2 have also been proven.
18. As noted above, Mr. Orr’s misconduct was the subject of an IIROC investigation. The matters that IIROC investigated became the subject of a settlement agreement that Mr. Orr entered into with IIROC dated October 29, 2019. (JSA, 16) The IIROC Hearing Panel accepted the settlement agreement on December 3, 2019. (JSA, 16)
19. Mr. Orr reported in his 2019/2020 CFP® Renewal Application Form that his conduct was the subject of an IIROC review. However, in connection with this disclosure Mr. Orr admits in the JSA that he submitted misleading information to FP Canada in an effort to downplay his misconduct. Specifically, he admitted that a letter he had sent to IIROC dated June 8, 2018 referencing his misconduct, a copy of which he forwarded to FP Canada, was misleading. (JSA, 27) He admits that in the letter he “tried to mislead FP Canada into thinking that some of the inaccurate phone numbers found by National Bank were changed in an effort to update outdated contact information and that Mr. Orr’s inexperience utilizing the software had led to errors.” (JSA, 28) However, Mr. Orr later admitted that the database software was straightforward, and that his earlier explanation had been intentionally misleading. (JSA, 28)
20. The Panel concludes that Mr. Orr included misleading information with his 2019/2020 CFP Renewal Application Form which he submitted to FP Canada, thereby engaging in conduct contrary to Principles 2 and 8 and Rule 35 of the Standards of Professional Responsibility in

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<sup>1</sup> JSA, paragraph 16. Future references to the JSA will be incorporated into the text of this decision by paragraph number.

force between January 2019 and March 2019. In this, the Panel concludes that the facts alleged in Allegation 3 have been proven.

21. The IIROC Hearing Panel found that by changing client contact information and by making false or misleading statements to its staff, Mr. Orr had contravened IIROC Consolidated Rule 1400 (engaging in conduct unbecoming). By failing to provide services according to “applicable laws, regulations, rules or established policies of governmental agencies or other applicable authorities, Mr. Orr also violated Rule 24 of the Standards of Professional Responsibility in force between April 2019 and December 2019. The Panel therefore concludes that the facts alleged in Allegation 4 have also been proven.
22. Having satisfied ourselves that the facts of this matter establish that Mr. Orr committed misconduct as alleged, we turn now to consider the appropriateness of the penalty the parties have agreed on. In this, we must consider the aggravating and mitigating factors in this case, considerations of specific and general deterrence, the protection of the public, and FP Canada’s role in demonstrating that it takes misconduct such as Mr. Orr’s seriously, and is willing to deal with it in the interests of the public.
23. In evaluating whether the recommended penalty is appropriate, the Panel wishes to consider Mr. Orr’s misconduct in greater detail. In this regard, the Panel notes that the term used to describe Mr. Orr’s motivation for misconduct, “competitive advantage,” does not fully capture the severity of his misconduct.
24. In tampering with National Bank’s database to enter false information about 394 National Bank clients, Mr. Orr acted dishonestly in order to impede National Bank’s efforts to contact them. Further, he made certain that he alone had their accurate telephone contact information by printing out an unmodified client contact list to bring with him when he left National Bank. He did both activities in secret to enrich himself. He did not have his clients’ or his employer’s best interests in mind.
25. Mr. Orr’s actions in altering the National Bank client database, would have, in turn, likely deprived clients of the information they needed to make a decision to transfer their business

to Mr. Orr or to stay with National Bank. Informed decision making is one of the core values underlying the financial planning industry. Without full and correct information, provided by advisors they can trust, clients cannot make investment decisions that support their best interests. Choosing an advisor to guide you with your investments is one of those decisions. Mr. Orr's misconduct violated this fundamental value in the financial planning industry.

26. Further, other potential harm may have followed for clients if National Bank had needed to contact them quickly but was prevented from doing so because Mr. Orr had falsified the clients' telephone records. For example, if clients had Registered Retirement Savings Plans (RRSPs) with National Bank, and were approaching the end of the year in which they turned age 71, they would have to transfer their RRSP money to an income producing vehicle like a Registered Retirement Income Fund (RRIF). If they missed the deadline they could face severe tax consequences. This is only one example. Mr. Orr's actions therefore potentially put affected clients at risk of financial harm. Although the parties have agreed that to their knowledge no client was harmed or suffered any financial loss, that fact does not excuse Mr. Orr's misconduct. His actions could have put clients at risk of financial harm, despite the absence of any incidents where financial harm had occurred.
27. The Panel also stresses that Mr. Orr's misconduct was planned, deliberate, broad in scope, and executed over a substantial period. It was not a momentary lapse in judgment.
28. Nor was Mr. Orr's misconduct carried out with the clients' best interests in mind. It was carried out to advance his own interests at the expense of his then employer, and to the potential financial harm of the clients whose records he had changed.
29. The Panel therefore agrees with the parties' submission in subparagraph 32a. of the JSA, that Mr. Orr's misconduct was very serious.
30. The Panel also agrees that the facts set out in the JSA support the conclusion that Mr. Orr also demonstrated a pattern of dishonesty by attempting to mislead IIROC, the Insurance Council of Manitoba, and FP Canada (JSA, 32b.) after his misconduct came to light.

31. The Panel regards Mr. Orr's conduct in misleading IIROC, the Insurance Council of Manitoba and FP Canada as serious for the following reasons. IIROC and FP Canada both rely on their members to provide them with honest and complete information in response to their inquiries. Without such information each professional body is hampered in its ability to govern its members in the public interest. Left unchallenged, such deficiencies can erode the public's confidence in the ability of each organization to carry out its respective mandates.

32. On the other hand, the Panel agrees that the following mitigating factors the parties have pointed to are relevant: (JSA, 33)

- a. There is no evidence to suggest that the clients involved in this matter suffered any financial harm or loss;
- b. Between December 2018 and September 2019, Mr. Orr voluntarily enrolled in and completed eight continuing education courses, including courses on professional responsibility and conflicts of interest;
- c. Although Mr. Orr initially downplayed his conduct, he has ultimately accepted responsibility for his actions and has expressed regret;
- d. Mr. Orr does not have a discipline history with FP Canada;
- e. As of the date of this settlement agreement, no complaints involving Mr. Orr have been received by FP Canada; and
- f. By entering into the within Settlement Agreement, Mr. Orr is saving time and resources.

33. The Panel also must evaluate the appropriateness of the recommended penalty with the concepts of specific and general deterrence in mind. Will the penalty we impose deter Mr. Orr and other members of the profession from this type of misconduct in the future, in light of all the circumstances of the case? For reasons that follow, we believe that the penalty we impose will do that.

34. Mr. Orr has an otherwise blameless record with FP Canada. While he may have thought that he was protecting client relationships that he had worked to develop, he disregarded the fact

that he had established those client relationships for the benefit of his employer, National Bank. IIROC has imposed a fine of \$22,500, a 30-day suspension, has required that Mr. Orr successfully rewrite the Conduct and Practices Handbook examination, and has required Mr. Orr to pay IIROC's costs of \$2,500. (JSA, 17) Further, Canaccord's insurance sponsor cancelled Mr. Orr's sponsorship, and the Insurance Council of Manitoba determined that Mr. Orr had misled them and had acted contrary to his license obligations. (JSA, 14) Additionally, the Panel's decision will be published, and will be available for any CFP® certificant and member of the public to see. It will remain as a black mark on Mr. Orr's record, and will we hope deter other certificants from engaging in misconduct.

35. The Panel notes the penalties that other regulatory agencies have applied, but only to show that Mr. Orr has experienced consequences from his misconduct in addition to the penalty we are imposing. The Panel is not bound by the decisions of other regulators, nor are we required to consider the penalties that other regulators have imposed in assessing the appropriateness of the penalties that we impose. Different regulatory agencies serve the public interest according to different rules and laws, and in different ways, and will therefore discharge their duties differently.
36. We also must consider how our decision will protect members of the public. The Panel believes that in providing specific and general deterrence, and by imposing a penalty that will assist Mr. Orr in his rehabilitation, the penalty will protect members of the public by discouraging Mr. Orr, and other members of the profession from future misconduct.
37. The Panel further believes that the penalty the parties have agreed to will serve the objective of remediation in Mr. Orr's case, in particular the requirement that Mr. Orr successfully complete the FP Canada Introduction to Professional Ethics (IPE) Program and two (2) credits of the FP Canada-approved CE in the category of Practice Management.
38. Finally, it is important that FP Canada demonstrate to members of the public that it takes misconduct such as Mr. Orr's seriously, and that it is willing to deal with it in the interests of the public. The Panel believes that this decision and the penalty we are imposing will do that.

## ORDER

39. For these reasons, the Panel accepts the JSA.

40. The Panel finds that Mr. Orr engaged in misconduct as alleged in the Statement of Allegations and as admitted in the JSA, more particularly in a manner that was contrary to:

- a. Principles 2 (Integrity) and 8 (Professionalism), and Rules 1 (conduct involving dishonesty, fraud, deceit, or misrepresentation), 2 (engaged in conduct that reflects adversely on his integrity or fitness as a certificant, the certification marks or the profession), 14 (use of a method of obtaining or retaining clients that lowers the standard of dignity of the profession), and 21 (use of personal or confidential client information without the written consent of the clients) of the Standards of Professional Responsibility in force from June 2017 to December 2018;
- b. Principles 2 (Integrity) and 8 (Professionalism), and Rule 35 (Misleading FP Canada) of the Standards of Professional Responsibility in force from January 2019 to March 2019; and
- c. Rule 24 (Professional services) of the Standards of Professional Responsibility in force from April 2019 to December 2019.

41. The Panel orders the following disciplinary penalty pursuant to its authority under Article 8.2 of the Disciplinary Rules and Procedures:

- a. Mr. Orr's Certified Financial Planner® ("CFP") certification and entitlement to use the CFP marks shall be suspended for a period of six (6) months commencing on the date the Hearing Panel's Order is signed;
- b. During the term of suspension, Mr. Orr 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;
- c. In addition to completing the annual Continuing Education ("CE") hours required of every CFP professional, Mr. Orr shall, at his own expense, successfully complete:
  - i. The FP Canada Introduction to Professional Ethics (IPE) program;
  - ii. Two (2) credits of FP Canada-approved CE in the category of Practice Management;

- d. Mr. Orr shall pay costs to FP Canada in the amount of \$1,500 within sixty (60) days of the date the Hearing Panel's Order is signed; and
- e. Mr. Orr shall provide proof of successful completion of the CE described in subparagraph (c) above and shall pay the costs described in subparagraph (d) above to the Standards Council as preconditions to recertification.

**DATED** this 3rd day of March, 2022

"Stuart Dollar"

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Stuart Dollar, CFP®, LL.B. Chair of the Hearing Panel

"Craig Noon-Ward"

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Craig Noon-Ward, CFP®

"Karen Manarin"

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Karen Manarin, LL.B.

***FP Canada Standards Council™***  
***and***  
***Clinton Orr, CFP®***

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**JOINT SETTLEMENT AGREEMENT**

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**I. NOTICE OF SETTLEMENT**

1. In accordance with Article 6.10 of the FP Canada Standards Council™ Disciplinary Rules and Procedures (the "DRP"), and as set out in this Joint Settlement Agreement (the "Agreement"), a settlement of all particulars in this matter has been reached between the FP Canada Standards Council™ (the "Standards Council"), a Division of FP Canada™, and Mr. Clinton Orr ("Mr. Orr" or "the Respondent").

**II. ACKNOWLEDGEMENTS**

***Execution of this Agreement***

2. The Respondent has carefully reviewed this Agreement and has had the benefit of legal counsel.
3. The Respondent has signed this Agreement voluntarily and without duress.
4. The parties agree that this Agreement will be filed with the Standards Council Discipline Hearing Panel (the "Hearing Panel"), on consent.

***The Allegations***

5. As set out in the Statement of Allegations dated August 24, 2021<sup>1</sup>, the Standards Council makes the following allegations against the Respondent:
  1. Between November 2017 and May 2018, the Respondent intentionally changed client phone numbers in his employer's database, in order to gain a competitive advantage before moving to another employer, thereby engaging

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<sup>1</sup> [statement-of-allegations---orr.pdf \(fpcanada.ca\)](#)

in conduct contrary to Principles 2 and 8 and Rules 1, 2 and 14 of the *Standards of Professional Responsibility* in force between June 2017 and December 2018.

2. In or about May 2018, when resigning from his employer, the Respondent used personal or confidential client information without the written consent of the clients, thereby engaging in conduct contrary to Rule 21 of the *Standards of Professional Responsibility* in force between June 2017 and December 2018.
3. In or about January 2019, the Respondent included misleading information with his 2019/2020 CFP Renewal Application which he submitted to FP Canada, thereby engaging in conduct contrary to Principles 2 and 8 and Rule 35 of the *Standards of Professional Responsibility* in force between January 2019 and March 2019.
4. In or about December 2019, the Respondent admitted to contravening IIROC Consolidated Rule 1400 (engaging in conduct unbecoming) and thereby failed to provide professional services in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities, contrary to Rule 24 of the *Standards of Professional Responsibility* in force between April 2019 and December 2019.

#### ***Admissions***

6. The Respondent admits the facts contained in this Agreement and admits that the facts support the particulars of professional misconduct contained in the Statement of Allegations dated August 24, 2021.
7. The Respondent understands that because he has signed this Agreement, the Standards Council will not have to prove the admitted facts or the admitted particulars through a full hearing; instead, the Hearing Panel will be asked to make a finding of misconduct based on this Agreement.
8. The Respondent understands that the Decision and Reasons, as well as a summary of the Decision, will be published in accordance with Article 10.1 of the DRP.

#### ***Jurisdiction***

9. The Respondent accepts the jurisdiction of the Hearing Panel to make a finding of misconduct in accordance with Article 8.1 of the DRP. He further accepts the jurisdiction of the Hearing Panel to impose a penalty pursuant to Article 8.2 of the DRP.
10. The Respondent understands that the Hearing Panel will review this Agreement having regard to Article 6.10 of the DRP and that the Hearing Panel may reject this Agreement and/or request amendments to this Agreement.

### ***Waiver of Appeal***

11. The Respondent is aware of his right to appeal a decision of the Hearing Panel pursuant to Article 9.1 of the DRP and, by executing this Agreement, voluntarily waives such right upon acceptance of this Agreement by the Hearing Panel.

## **III. FACTS**

### ***Background of the Respondent***

12. Mr. Orr was certified by the Financial Planning Standards Council®, now FP Canada, as a CERTIFIED FINANCIAL PLANNER® on May 1, 2009. Mr. Orr consistently renewed his certification and, as of the date of this Settlement Agreement, is a CFP professional in good standing with FP Canada. Mr. Orr does not have a discipline history with FP Canada.
13. Mr. Orr started his career with Bieber Securities Inc. in 2003. In 2008, Bieber Securities Inc. was acquired by National Bank Financial (“National Bank”). Mr. Orr remained with National Bank until May 2018, when he left to join Canaccord Genuity Wealth Management (“Canaccord”). Mr. Orr is currently working as a Portfolio Manager at Canaccord and resides in Beausejour, Manitoba.
14. Mr. Orr is registered as a Dealing Representative in several provinces and held an insurance license from 2010 until January 2020, at which time Canaccord’s insurance sponsor canceled his sponsorship as a result of the conduct described below. In reviewing the conduct, the Insurance Council of Manitoba determined that Mr. Orr had misled them and acted contrary to his license obligations<sup>2</sup>.

### ***History of Proceedings***

15. This matter came to the attention of the Standards Council when Mr. Orr reported on his 2019/2020 CFP® Renewal Application Form, that his conduct was the subject of a review by the Investment Industry Regulatory Organization of Canada (“IIROC”).
16. Mr. Orr subsequently entered into a Settlement Agreement with IIROC, dated October 29, 2019, which was accepted by the IIROC Hearing Panel on December 3, 2019<sup>3</sup>. In the approved Settlement Agreement, Mr. Orr admitted, among other things, that:

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<sup>2</sup> This determination was not the result of a public discipline proceeding.

<sup>3</sup> [Decision on Acceptance of Settlement dated June 16, 2020 and IIROC Settlement Agreement dated October 29, 2019](#)

- a. Between approximately November 2017 and May 2018, he changed the telephone contact information for 394 clients in National Bank's internal database before moving to Canaccord, in order to obtain a competitive advantage; and
- b. He made false or misleading statements to IIROC staff in a letter dated June 8, 2018 as well as during an interview.

17. Mr. Orr agreed to pay a fine of \$22,500, serve a 30-day suspension, successfully rewrite of the Conduct and Practices Handbook examination and pay costs of \$2,500.
18. When Mr. Orr reported the review by IIROC to FP Canada in January 2019, he submitted misleading information to FP Canada, in an attempt to downplay his conduct.
19. On or about February 2, 2021, the Standards Council initiated an independent investigation into Mr. Orr's conduct as an FP Canada certificant.
20. On July 22, 2021, the Conduct Review Panel ("CRP") convened and referred this matter to a Hearing Panel.
21. On August 24, 2021, the Statement of Allegations was served and filed on notice to Mr. Orr.

### ***The Alleged Misconduct***

#### **Allegation #1 – Changing Client Contact Information**

22. Mr. Orr admits that over a period of approximately six (6) months between approximately November 2017 and May 2018, prior to departing from his employer, National Bank, he intentionally changed client telephone numbers in National Bank's database.
23. Mr. Orr admits that he engaged in this conduct in attempt to impede and delay National Bank's ability to communicate with his former clients and so that he could gain a competitive advantage in retaining the clients.
24. Mr. Orr admits that this conduct was contrary to Principles 2 (Integrity) and 8 (Professionalism) and Rules 1 (conduct involving dishonesty, fraud, deceit or misrepresentation), 2 (engaged in conduct that reflects adversely on his integrity or fitness as a certificant, the certification marks or the profession) and 14 (using a method of obtaining or retaining clients that lowers the standard of dignity of the profession).

#### **Allegation #2: Using Client Contact Information without Consent**

25. Mr. Orr admits that he printed and retained a list of confidential client contact information when resigning from National Bank and used this printed list when contacting clients following his departure from National Bank.
26. Mr. Orr admits that this conduct was contrary to Rule 21 (Use of personal or confidential client information without the written consent of the clients).

**Allegation #3 - Made false or misleading statements to FP Canada**

27. Mr. Orr admits that the letter dated June 8, 2018, submitted to FP Canada with his 2019/2020 CFP Renewal application, was misleading.
28. Mr. Orr further admits that the misleading statements within the letter were an attempt to downplay the seriousness of his conduct in changing client contact information. In particular, Mr. Orr tried to mislead FP Canada into thinking that the inaccurate phone numbers found by National Bank were changed in an effort to update outdated contact information and that Mr. Orr's inexperience utilizing the software led to the errors. However, Mr. Orr admits that the database software was in fact straightforward and that the letter submitted to FP Canada was intentionally misleading.
29. Mr. Orr admits that this conduct was contrary to Principles 2 (Integrity) and 8 (Professionalism) and Rule 35 (Misleading FP Canada).

**Allegation #4 - Failed to provide professional services in accordance with other applicable authorities**

30. On December 3, 2019, IIROC determined that by changing the client contact information and making false or misleading statements to IIROC Staff, Mr. Orr contravened Consolidated Rule 1400 of their Standards of Conduct.
31. By failing to act in accordance with the IIROC's Standards of Conduct, Mr. Orr failed to provide professional services in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities, contrary to Rule 24.

***Aggravating Circumstances***

32. There are several aggravating circumstances which are relevant:
  - a. The conduct at issue is very serious. Changing client contact information to gain a competitive advantage; misleading FP Canada; and using client contact information without their consent is serious misconduct.
  - b. Mr. Orr has showed a pattern with respect to misleading regulators in that he was also found to have misled IIROC as well as the Insurance Council of Manitoba.

### ***Mitigating Circumstances***

33. There are also several mitigating circumstances which are relevant:
  - a. There is no evidence to suggest that the clients involved in this matter suffered any harm or financial loss;
  - b. Between December 2018 and September 2019, Mr. Orr voluntarily enrolled in and completed eight continuing education courses, including courses on professional responsibility and conflicts of interest;
  - c. Although Mr. Orr initially downplayed his conduct, he has ultimately accepted responsibility for his actions and has expressed regret;
  - d. Mr. Orr does not have a discipline history with FP Canada; and
  - e. By entering into the within Settlement Agreement, Mr. Orr is saving time and resources.

## **IV. APPLICABLE STANDARDS**

34. The applicable Principles of the Code of Ethics and Rules of the Rules of Conduct of the applicable Standards of Professional Responsibility are set out in **Appendix "A"**.

## **V. AGREEMENT WITH RESPECT TO PENALTY**

### ***The Proposed Penalty***

35. The parties have made the following agreement with respect to penalty:
  - a. The Respondent's CFP certification and entitlement to use the CFP marks shall be suspended for a period of six (6) months commencing on the date the Hearing Panel's Order is signed;
  - b. During the term of suspension, the Respondent 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;
  - c. In addition to completing the annual Continuing Education ("CE") hours required of every CFP professional, the Respondent shall, at his own expense successfully complete:
    - d. The FP Canada Introduction to Professional Ethics (IPE) program;
    - e. Two (2) credits of FP Canada-approved CE in the category of Practice Management

- f. The Respondent shall pay costs to FP Canada in the amount of \$1,500 within sixty (60) days of the date the Hearing Panel's Order is signed; and
- g. The Respondent shall provide proof of successful completion of the CE described in subparagraph (c) above and shall pay the costs described in subparagraph (d) above to the Standards Council as preconditions to recertification.
- h. The parties jointly submit that the penalty proposed in this case is appropriate, in the public interest, and consistent with the admissions and the applicable standards.
- i. This Agreement may be signed in counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

Agreed to by FP Canada Standards Council, this 12<sup>th</sup> day of December, 2021

"Tamara Center"

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**Tamara Center, Counsel to FP Canada Standards Council**

Agreed to by Clinton Orr, this 14<sup>th</sup> day of December, 2021

"Clinton Orr"

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**Clinton Orr**

## Appendix A

### Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1® Certificants in Financial Planning – June 2017 to December 2018

#### Principle 2: Integrity

**A CFP professional shall always act with integrity.**

Integrity means rigorous adherence to the moral rules and duties imposed by honesty and justice. Integrity requires the CFP professional to observe both the letter and the spirit of the Code.

#### Principle 8: Professionalism

**A CFP professional shall act in a manner reflecting positively upon the profession.**

Professionalism refers to conduct that inspires confidence and respect from clients and the community and embodies all of the other principles within the Code.

**Rule 1:** A CFP professional shall not engage in or associate with individuals engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement to clients or any other parties.

**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 14:** A CFP professional shall not adopt any method of obtaining or retaining clients that lowers the standard of dignity of the profession, and for greater certainty:

- a) A CFP professional shall not make a false or misleading communication about the size, scope or areas of competence of the CFP professional's practice or of any organization with which the CFP professional is associated;
- b) A CFP professional shall not make false or misleading communications to the public or create unverifiable expectations regarding matters relating to financial planning or competence of the CFP professional; and
- c) A CFP professional shall not give the impression that s/he is representing the views of FPSC or any other group unless the CFP professional has been authorized to do so.

**Rule 21:** A CFP professional shall not disclose or use any personal or confidential client information without the written and informed consent of the client, unless in response to proper legal, statutory or regulatory process under which the CFP professional is obliged to do so including co-operation with the FPSC investigation of a complaint.

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**Principle 2: Integrity**

**A Certificant shall always act with integrity.**

Integrity means rigorous adherence to the moral rules and duties imposed by honesty and justice. Integrity requires the Certificant to observe both the letter and the spirit of the Code.

**Principle 8: Professionalism**

**A Certificant shall act in a manner reflecting positively upon the profession.**

Professionalism refers to conduct that inspires confidence and respect from clients and the community, and embodies all of the other principles within the Code.

**Rule 35:** A Certificant shall not make any false or misleading statement to FPSC

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**Rule 24:** A Certificant shall provide their professional services in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities, including FP Canada and the FP Canada Standards Council.