



FP Canada Standards Council™

and

Blair Trenholme

STATEMENT OF ALLEGATIONS

THE CFP® PROFESSIONAL

1. Blair Trenholme (“Mr. Trenholme” or “the Respondent”) was certified by the Financial Planning Standards Council® now FP Canada™, as a CERTIFIED FINANCIAL PLANNER® professional between August 2004 and March 31, 2018. Mr. Trenholme’s certification lapsed due to non-renewal in or around April 2018. Mr. Trenholme does not have a discipline history with the FP Canada Standards Council™ (the “Standards Council”).
2. Mr. Trenholme resides in Vancouver, British Columbia.

HISTORY OF THE PROCEEDINGS

3. In November 2020, the Standards Council received a public complaint regarding Mr. Trenholme’s professional conduct. The complaint involved allegations that Mr. Trenholme failed to conduct due diligence on investment products; placed them into unsuitable investments that were not consistent with their objectives, risk tolerance and personal financial circumstances; misled them as to the returns they could expect; and failed to disclose the risks and increasing risks related to certain funds; which ultimately resulted in significant financial loss. The alleged conduct occurred between 2008 and October 2017, while Mr. Trenholme was a CFP® Certificant.
4. On March 10, 2021, the Standards Council wrote to Mr. Trenholme and notified him that the Standards Council was conducting a review of his conduct as a CFP Certificant. In the same correspondence, the Standards Council requested that Mr. Trenholme respond and provide relevant information and documentation by April 9, 2021, to assist the Standards Council in its review.
5. Mr. Trenholme failed to respond to the Standard Council’s inquiry of March 10, 2021 or to the Standard Council’s subsequent communications and requests for responses of April 13, 2021 and April 29, 2021.

6. The final deadline for response to the Standard Council's communications expired on May 13, 2021.
7. On May 26, 2021, the Executive Director, Standards & Certification and Head of the FP Canada Standards Council, referred this matter to a Disciplinary Hearing Panel in accordance with Article 4.3 of the *FP Canada Standards Council Disciplinary Rules and Procedures (DRP)*.

NOTICE

8. Further to the direction of the Executive Director, Standards & Certification and Head of the FP Canada Standards Council, and in accordance with Article 5.1 of the *DRP*, I hereby give notice of the Standards Council's request that a hearing date be set with respect to the matter identified as: *FP Canada Standards Council™ and Blair Trenholme*.
9. The Standards Council requests that the hearing in respect of this matter be held in writing.

APPLICABLE STANDARDS

<i>Applicable Rules of Conduct (in relevant part)</i>	
Rule 33	<i>A Certificant shall reply promptly and completely to any communication from FP Canada or the FP Canada Standards Council in which a response is requested.</i>

ALLEGATIONS

The Standards Council makes the following allegation against the Respondent:

1. The Respondent failed to respond to correspondence sent by the FP Canada Standards Council dated March 10, 2021; April 13, 2021 and April 29, 2021, each of which included requests for information and deadlines for response, thereby breaching Rule 33 of the *Rules of Conduct*.

Dated the 2nd day of June, 2021.



Tamara Center
 Director, Professional Conduct and Enforcement
 Counsel to FP Canada Standards Council™



FP Canada Standards Council™

and

Blair Trenholme

AMENDED STATEMENT OF ALLEGATIONS

THE CFP® PROFESSIONAL

1. Blair Trenholme (“Mr. Trenholme” or “the Respondent”) was certified by the Financial Planning Standards Council® now FP Canada™, as a CERTIFIED FINANCIAL PLANNER® professional between August 2004 and March 31, 2018. Mr. Trenholme’s certification lapsed due to non-renewal in or around April 2018. Mr. Trenholme does not have a discipline history with the FP Canada Standards Council™ (the “Standards Council”).
2. Mr. Trenholme resides in Vancouver, British Columbia.

HISTORY OF THE PROCEEDINGS

3. In November 2020, the Standards Council received a public complaint regarding Mr. Trenholme’s professional conduct. The complaint involved allegations that Mr. Trenholme failed to conduct due diligence on investment products; placed them into unsuitable investments that were not consistent with their objectives, risk tolerance and personal financial circumstances; misled them as to the returns they could expect; and failed to disclose the risks and increasing risks related to certain funds; which ultimately resulted in significant financial loss. The alleged conduct occurred between 2008 and October 2017, while Mr. Trenholme was a CFP® Certificant.
4. On March 10, 2021, the Standards Council wrote to Mr. Trenholme and notified him that the Standards Council was conducting a review of his conduct as a CFP Certificant. In the same correspondence, the Standards Council requested that Mr. Trenholme respond and provide relevant information and documentation by April 9, 2021, to assist the Standards Council in its review.
5. Mr. Trenholme failed to respond to the Standard Council’s inquiry of March 10, 2021 or to the Standard Council’s subsequent communications and requests for responses of April 13, 2021 and April 29, 2021.

6. The final deadline for response to the Standard Council’s communications expired on May 13, 2021.
7. On May 26, 2021, the Executive Director, Standards & Certification and Head of the FP Canada Standards Council, referred this matter to a Disciplinary Hearing Panel in accordance with Article 4.3 of the *FP Canada Standards Council Disciplinary Rules and Procedures (DRP)*.

NOTICE

8. Further to the direction of the Executive Director, Standards & Certification and Head of the FP Canada Standards Council, and in accordance with Article 5.1 of the *DRP*, I hereby give notice of the Standards Council’s request that a hearing date be set with respect to the matter identified as: *FP Canada Standards Council™ and Blair Trenholme*.
9. The Standards Council requests that the hearing in respect of this matter be held in writing.

APPLICABLE STANDARDS

Applicable Rules of Conduct (in relevant part)	
Rule 33	<i>A Certificant shall reply promptly and completely to any communication from FP Canada or the FP Canada Standards Council in which a response is requested.</i>
Rule 34	<i>(34) A Certificant shall cooperate fully with a FP Canada Standards Council investigation of a complaint unless legally prevented from doing so. This rule applies equally to current and former Certificants.</i>

ALLEGATIONS

The Standards Council makes the following allegation against the Respondent:

1. The Respondent failed to respond to correspondence sent by the FP Canada Standards Council dated March 10, 2021; April 13, 2021 and April 29, 2021, each of which included requests for information and deadlines for response, thereby failing to cooperate with the FP Canada Standards Council and breaching Rule 33 34 of the Rules of Conduct in force between January 2020 and June 2021.

Dated the 12th ~~2nd~~ day of ~~June~~ November, 2021.



Tamara Center
Director, Professional Conduct and Enforcement
Counsel to FP Canada Standards Council™

REPORT ON DISCIPLINARY ACTION

Details of Hearing: Blair Trenholme (Vancouver, BC)

By way of Decision and Reasons dated February 14, 2022, an FP Canada Standards Council™ Discipline Hearing Panel (the “Hearing Panel”) found that Blair Trenholme engaged in conduct that breached the FP Canada Standards Council Standards of Professional Responsibility (“Standards of Professional Responsibility”).

The Hearing Panel’s Decision and Reasons on merits are summarized below and are attached in full. The Hearing Panel considered the evidence provided by the FP Canada Standards Council (the “Standards Council”). Mr. Trenholme did not provide any submissions, or otherwise participate in the proceedings despite receiving notice of the proceedings, as set out further below.

Having found that Mr. Trenholme engaged in misconduct, the Hearing Panel directed that the matter be referred to a penalty hearing, to be scheduled.

Background

Mr. Trenholme was certified by the Financial Planning Standards Council®, now FP Canada™, as a CERTIFIED FINANCIAL PLANNER® professional between August 2004 and March 31, 2018. Mr. Trenholme’s certification lapsed due to non-renewal in or around April 2018. Mr. Trenholme does not have a disciplinary history with the Standards Council.

In November 2020, the Standards Council received a public complaint regarding Mr. Trenholme’s professional conduct. The complaint involved allegations that Mr. Trenholme:

- failed to conduct due diligence on investment products;
- placed them into unsuitable investments that were not consistent with their objectives, risk tolerance and personal financial circumstances;
- misled them as to the returns they could expect; and
- failed to disclose the risks and increasing risks related to certain funds; which ultimately resulted in significant financial loss.

The alleged misconduct occurred between 2008 and October 2017, while Mr. Trenholme was certified by FP Canada.

Mr. Trenholme failed to respond to several inquiries from the Standard Council regarding his alleged conduct.

Allegations Advanced by the Standard Council

In its Statement of Allegations dated June 2, 2021, the Standards Council alleged that Mr. Trenholme:

1. Failed to respond to correspondence sent by the FP Canada Standards Council dated March 10, 2021; April 13, 2021; and April 29, 2021, each of which included requests for information and deadlines for response, thereby breaching **Rule 33** of the *Rules of Conduct*.

The Hearing Panel met on September 9, 2021 to conduct a written hearing to consider allegations of misconduct against Mr. Blair Trenholme. The Hearing Panel did not make a decision on the merits of the allegations set above. The Hearing Panel determined, by way of a Decision and Reasons on jurisdiction dated November 11, 2021, that it did not have jurisdiction to make a finding under Rule 33. Instead, the Hearing Panel granted leave to the Standards Council to amend the Statement of Allegations to plead a breach of Rule 34 of the *Rules of Conduct*.

On November 12, 2021, the Standards Council filed an Amended Statement of Allegations, with the following allegations against Mr. Trenholme:

1. Mr. Trenholme failed to respond to correspondence sent by the FP Canada Standards Council dated March 10, 2021; April 13, 2021; and April 29, 2021, each of which included requests for information and deadlines for response, thereby failing to cooperate with the FP Canada Standards Council and breaching **Rule 34** of the *Rules of Conduct* in force between January 2020 and June 2021.

FP Canada Standards Council Hearing Panel Decision

The Hearing Panel released its Decision and Reasons on merits on February 14, 2022.

In accordance with Article 8.1 of the Disciplinary Rules and Procedures (the “DRP”), the Hearing Panel found that Mr. Trenholme did engage in misconduct as alleged in the Amended Statement of Allegations, particularly that Mr. Trenholme breached Rule 34 of the *Standards of Professional Responsibility*.

The Hearing Panel will reconvene to deliberate on Penalty on a date to be scheduled.

DISCIPLINARY HEARING DECISION AND REASONS

FP Canada Standards Council™

and

Blair Trenholme

Proceeding format: Matter heard in writing

Date of deliberation: January 14, 2022

Date of decision: February 14, 2022

Hearing Panel: Peter Jong, CFP®, Chair of the Hearing Panel
Stuart Dollar, CFP®
Mark Bailey, L.L.B

Tamara Center, L.L.B, counsel for FP Canada Standards Council
Blair Trenholme, self-represented
Erica Richler, 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”) held a written hearing to consider allegations of misconduct against Mr. Blair Trenholme. The Panel considered the written submissions and evidence from FP Canada. Mr. Trenholme did not provide any submissions or response to the Notice of Hearing.
 2. The allegations in this case relate to Mr. Trenholme’s alleged failure to cooperate with an investigation by not responding to FP Canada’s requests for information relating to a complaint.

3. For the reasons set out below, the Panel finds that Mr. Trenholme engaged in misconduct and breached Rule 34 of the *Standards of Professional Responsibility*. Accordingly, the Panel orders that this matter be referred to a penalty hearing pursuant to Article 8.2 of the *Disciplinary Rules and Procedures*.

THE ALLEGATIONS OF MISCONDUCT

4. The allegations against Mr. Trenholme were set out in the Amended Statement of Allegations dated November 12, 2021 as follows:
 1. The Respondent failed to respond to correspondence sent by the FP Canada Standards Council dated March 10, 2021; April 13, 2021 and April 29, 2021, each of which included requests for information and deadlines for response, thereby failing to cooperate with the FP Canada Standards Council and breaching Rule 34 of the *Rules of Conduct* in force between January 2020 and June 2021.
5. By way of background, the original Statement of Allegations was amended with leave of this Panel, following a decision released November 11, 2021. The original Statement of Allegations had alleged that the “Respondent failed to respond to correspondence sent by the FP Canada Standards Council dated March 10, 2021; April 13, 2021 and April 29, 2021, each of which included requests for information and deadlines for response, thereby breaching Rule 33 of the *Rules of Conduct*.” After inviting submissions from both parties and receiving submissions from the Standards Council, the Panel determined that it did not have jurisdiction to make a finding under Rule 33 because the Respondent was a former certificant at the time of the alleged conduct. The Panel granted the Standards Council leave to amend the allegations to allege a breach of Rule 34, which applies to former certificants. A copy of the Panel’s November 11, 2021 decision is attached as **Schedule “A”** to these reasons.

6. The Standards Council delivered the Amended Statement of Allegations to the Respondent and to the Panel on November 12, 2021. The Respondent did not respond to the original or the Amended Statement of Allegations.

FACTS

7. Mr. Trenholme was certified by the Financial Planning Standards Council®, now FP Canada®, as a CERTIFIED FINANCIAL PLANNER® professional between August 2004 and March 31, 2018. Mr. Trenholme's certification lapsed due to non-renewal in or around April 2018.
8. In November 2020, the Standards Council received a complaint regarding Mr. Trenholme's professional conduct. The complaint involved allegations that Mr. Trenholme failed to conduct due diligence on investment products; placed his clients into unsuitable investments that were not consistent with their objectives, risk tolerance and personal financial circumstances; misled them as to the returns they could expect; and failed to disclose risks and increasing risks related to certain funds; which ultimately resulted in significant financial loss. The alleged conduct that is the subject of the investigation occurred between 2008 and October 2017, while Mr. Trenholme was a CFP® Certificant.
9. According to the affidavit evidence filed by the Standards Council, the Standards Council wrote to Mr. Trenholme on March 10, 2021, April 13, 2021, and April 29, 2021, and requested information about his conduct. Each letter included a deadline to respond. Mr. Trenholme did not respond to any of the Standards Council's correspondence. We consider the evidence in more detail in our Reasons for Decision.

APPLICABLE STANDARDS

10. The following rule was in place at the times of the alleged conduct:

Applicable Rules of Conduct

Rule 34	<i>A Certificant shall cooperate fully with a FP Canada Standards Council investigation of a complaint unless legally prevented from doing so. This rule applies equally to current and former Certificants.</i>
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REASONS FOR DECISION

11. The Standards Council presented evidence in the form of an affidavit from Ms. Sheila Jane, a Standards Council Complaint Intake and Case Coordinator, regarding the requests for information she sent to Mr. Trenholme on March 10, 2021, April 13, 2021, and April 29, 2021.¹ The requests for information sent on March 10 and April 13, 2021 were sent as letters attached to emails that she sent to Mr. Trenholme’s personal and business email addresses, as recorded on file with FP Canada. The emails and attached letters were filed as exhibits to Ms. Jane’s affidavit. The Panel draws the inference that both email addresses had been provided to FP Canada by Mr. Trenholme as part of his annual filings during the time he was a CFP certificant.
12. The two emails that Ms. Jane sent to Mr. Trenholme’s business email address on March 10 and April 13, 2021 triggered responses to Ms. Jane to the effect that they were undeliverable. However, Ms. Jane received no such response – indeed no response at all – to the emails she sent to Mr. Trenholme’s personal email address. We conclude from Ms. Jane’s evidence that Mr. Trenholme received Ms. Jane’s emails of March 10 and April 13, 2021, and the attachments, and failed to respond to them.
13. Ms. Jane sent a final email to Mr. Trenholme’s personal and business email addresses on April 29, 2021, also with an attached letter. On the same day she also sent the letter by regular mail and FedEx to Mr. Trenholme’s personal and business addresses,

¹ Affidavit of Sheila Jane, sworn July 28, 2021.

on file with FP Canada. The emails and attached letter, were also attached as exhibits to Ms. Jane's affidavit.

14. Ms. Jane received proof of delivery from FedEx for the letter she sent by FedEx to Mr. Trenholme's personal address (attached as an exhibit to her affidavit), showing that FedEx delivered the letter to Mr. Trenholme's personal address on April 30, 2021. However, the letter she sent by FedEx to Mr. Trenholme's business address was returned to her, undelivered. Ms. Jane received no response from Mr. Trenholme to her letter of April 29, 2021.
15. We conclude that Mr. Trenholme received Ms. Jane's letter of April 29, 2021, and failed to respond to that correspondence also.
16. As shown in the exhibits attached to her affidavit, in each letter she sent to Mr. Trenholme, Ms. Jane set out clear deadlines for him to respond: 30 days for the March 10, 2021 letter, 10 days for the April 13, 2021 letter, and 14 days for the April 29, 2021 letter. The evidence before us establishes that Mr. Trenholme did not respond to the Standards Council by these deadlines, or at all. In the Panel's view, each deadline gave Mr. Trenholme a reasonable time within which to respond.
17. On June 9, 2021, the Standards Council sent a Notice of Hearing to Mr. Trenholme by email. The Standards Council also sent the Notice of Hearing to Mr. Trenholme's home address by FedEx and regular mail. FedEx confirmed that it delivered the Notice of Hearing to Mr. Trenholme's home address on June 24, 2021.
18. Given that the Panel is satisfied that Mr. Trenholme received the requests for information from FP Canada, and that he failed to respond to them, the Panel has concluded that Mr. Trenholme is in breach of Rule 34 of the *Standards of Professional Responsibility*. The Panel observes that cooperation with an investigation entails, at the very least, the provision of timely responses to the FP Canada Standards Council's enquiries concerning complaints. The Panel, therefore, concludes that Mr.

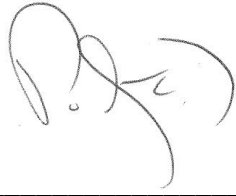
Trenholme's failure to respond constitutes a failure to cooperate with the FP Canada Standards Council.

19. While Mr. Trenholme currently is not a CFP certificant, the Standards Council has the authority under Rule 2.1 of the Disciplinary Rules and Procedures to investigate conduct that occurred while he was certified. The rule says that established misconduct "shall constitute grounds for discipline ... irrespective of the individual's certification status at the time of the complaint or resulting proceedings." Given that the Panel is satisfied that Mr. Trenholme failed to cooperate with an investigation, the Panel has concluded that Mr. Trenholme is in breach of Rule 34 of the *Standards of Professional Responsibility*. Rule 34 explicitly applies to former certificants. In addition, the subject of the underlying investigation occurred while Mr. Trenholme was a CFP certificant.

CONCLUSION AND ORDER

20. For the reasons set out above, the Panel finds that Mr. Trenholme engaged in misconduct as alleged in the Amended Statement of Allegations, more particularly that Mr. Trenholme breached Rule 34 of the *Standards of Professional Responsibility*.
21. The Panel directs that this matter be referred to a penalty hearing, to be scheduled by the Secretary to the Hearing Panel.

DATED this 14th day of February, 2022



Peter Jong, CFP[®], Chair of the Hearing Panel



Stuart Dollar, CFP[®], Hearing Panel Member



Mark Bailey, Hearing Panel Member

SCHEDULE A

DISCIPLINARY HEARING DECISION AND REASONS
RULING ON JURISDICTION AND LEAVE TO AMEND

IN THE MATTER OF FP CANADA STANDARDS COUNCIL™
AND
BLAIR TRENHOLME

Heard in writing: October 22, 2021

Date of decision: November 11, 2021

Hearing Panel: **FP Canada Standards Council Discipline Hearing Panel**
Peter Jong, CFP®, Chair of the Hearing Panel
Stuart Dollar, CFP®
Mark Bailey

Tamara Center, for FP Canada Standards Council
Blair Trenholme, self-represented
Erica Richler, Independent Legal Counsel to the Hearing Panel
Jignasa Patel, Secretary to the Hearing Panel

1. The FP Canada Standards Council Discipline Hearing Panel (the “Panel”) met on September 9, 2021 to conduct a written hearing to consider allegations of misconduct against Mr. Blair Trenholme.
2. The allegations in this case relate to Mr. Trenholme’s alleged failure to respond to FP Canada’s requests for information relating to a complaint made against him, contrary to Rule 33 of the Rules of Conduct.
3. On September 30, 2021, the Panel asked the parties to provide submissions relating to whether the Panel had jurisdiction to make a finding against Mr. Trenholme under Rule 33, given that he was not certified at the time he allegedly failed to respond to the correspondence that FP Canada sent to him. The Panel wrote to the parties as follows:

The Panel has not yet reached a final decision and has asked for the parties’ submissions on the following question:

1. Does the Panel have jurisdiction to make a finding of misconduct under Rule 33 of the Rules of Conduct if Mr. Trenholme was not certified at the time of the alleged conduct (namely, when he allegedly failed to respond to correspondence in 2021)?

The Panel has reviewed Rule 2.1 of the Disciplinary Rules and Procedures, as well as the wording of Rule 33 of the Rules of Conduct. The Panel notes that the specific allegation against Mr. Trenholme is that he breached Rule 33 of the Rules of Conduct in force at the time, which states:

(33) A Certificant shall reply promptly and completely to any communication from FP Canada or the FP Canada Standards Council in which a response is requested.

The Panel notes that other rules in the Rules of Conduct state that they “apply equally to current and former Certificants” but that language is not included in Rule 33. See for example, Rule 34, which states:

(34) A Certificant shall cooperate fully with a FP Canada Standards Council investigation of a complaint unless legally prevented from doing so. This rule applies equally to current and former Certificants.

4. The parties were asked to respond to the Panel by October 14, 2021.
5. The Standards Council provided submissions dated October 7, 2021. These submissions are summarized below. Mr. Trenholme did not respond to the Panel’s request.
6. The Panel met again on October 22, 2021 to consider this preliminary jurisdictional issue. For the reasons set out below, the Panel has determined that it does not have jurisdiction to make a finding of misconduct against Mr. Trenholme under Rule 33 of the Rules of Conduct, and grants leave to the Standards Council to amend the Statement of Allegations to plead a breach of Rule 34 of the Rules of Conduct. Mr. Trenholme will then have an opportunity to make submissions before the matter is brought back to the Panel for a decision on the merits.

THE ALLEGATIONS OF MISCONDUCT

7. The allegations against Mr. Trenholme were set out in the Statement of Allegations dated June 2, 2021 as follows:
 1. The Respondent failed to respond to correspondence sent by the FP Canada Standards Council dated March 10, 2021; April 13, 2021 and April 29, 2021, each of which included

requests for information and deadlines for response, thereby breaching Rule 33 of the Rules of Conduct.

FACTS

8. Mr. Trenholme was certified by the Financial Planning Standards Council[®], now FP Canada[™], as a CERTIFIED FINANCIAL PLANNER[®] professional between August 2004 and March 31, 2018. Mr. Trenholme's certification lapsed due to non-renewal in or around April 2018.
9. In November 2020, the Standards Council received a complaint regarding Mr. Trenholme's professional conduct. The complaint involved allegations that Mr. Trenholme failed to conduct due diligence on investment products; placed his clients into unsuitable investments that were not consistent with their objectives, risk tolerance and personal financial circumstances; misled them as to the returns they could expect; and failed to disclose risks and increasing risks related to certain funds; which ultimately resulted in significant financial loss. The alleged conduct occurred between 2008 and October 2017, while Mr. Trenholme was a CFP[®] Certificant.
10. According to the affidavit evidence filed by FP Canada, FP Canada wrote to Mr. Trenholme on March 10, 2021, April 13, 2021, and April 29, 2021 requesting information about his conduct. Each letter included a deadline to respond. Mr. Trenholme did not respond to any of FP Canada's correspondence. We consider the evidence in more detail in our Reasons for Decision.

APPLICABLE STANDARDS

11. The following rule was in place at the times of the alleged conduct:

<i>Applicable Rules of Conduct</i>	
Rule 33	<i>A Certificant shall reply promptly and completely to any communication from FP Canada or the FP Canada Standards Council in which a response is requested.</i>

STANDARDS COUNCIL'S SUBMISSIONS

12. In response to the Panel's September 30, 2021 questions, the Standards Council submits that the Panel has the requisite jurisdiction to make a finding against Mr. Trenholme pursuant to Rule 33 and that his conduct should not escape review due to the interpretations of Rules 33 or 34. The Standards Council also submits that, taking into account the breadth of Article 2.1 of the Disciplinary Rules of Procedure ("DRP") and the overall spirit of the DRP and the Rules of Conduct, the Panel has the jurisdiction to review the conduct of former certificants. Alternatively,

should the Panel find that it does not have the requisite jurisdiction pursuant to Rule 33 but does have the requisite jurisdiction pursuant to Rule 34, the Standards Council respectfully seeks leave to amend its Allegation to allege that Mr. Trenholme’s conduct was contrary to Rule 34 instead.

REASONS FOR DECISION

No Jurisdiction Over Former Certificants under Rule 33

13. Mr. Trenholme was a former certificant during the alleged failure to respond to FP Canada’s requests for information relating to a complaint made against him. The application of Rule 33 to this alleged failure to respond is problematic as the rule does not include any language that references “Former Certificants”. Other rules, including Rule 34, reference “Former Certificants.” The natural inference is that the omission of “Former Certificants” from Rule 33 was deliberate and intended to exclude former certificants from its ambit. As such, the Panel cannot read into Rule 33 language to include former certificants. The Panel therefore concludes that Rule 33 does not apply to Mr. Trenholme as a former certificant.

14. The Panel is also not willing to adopt an expansive interpretation of Rule 33 in light of Article 2.1 of the DRP so as to include former certificants. The language in Article 2.1 is broad and generally codifies the concept of misconduct under the DRP.¹ If the Standards Council accuses someone of misconduct, we believe it is more fair for the Standards Council to proceed under a specific rule than under a more general rule to afford a certificant or former certificant more specific notice of the allegations advanced against him or her. Nor is it fair to import provisions from a general rule into a more specific rule to make the specific rule fit an accusation it otherwise would not. Of course, our conclusion would be different if Article 2.1 stated that all rules were to be read as if Article 2.1 were incorporated into each rule. However, this is not the case, and the Statement of Allegations does not refer to Article 2.1. Reading the provisions of rule 2.1 into Rule 33 would not be fair, and the Panel rejects this approach.

Leave to Amend is Granted

15. The Standards Council also submits, in the alternative if the Panel determines that Rule 33 does not apply to a former certificant, that it be granted leave to amend its Allegation to allege that Mr. Trenholme’s conduct was contrary to Rule 34 instead. Rule 34 states:

¹ <https://www.fpcanada.ca/docs/default-source/enforcement/disciplinary-rules-and-procedures.pdf>

A Certificant shall cooperate fully with a FP Canada Standards Council investigation of a complaint unless legally prevented from doing so. This rule applies equally to current and former Certificants.

16. As discussed in the Standard Council’s October 7, 2021, submissions, in order for Rule 34 to apply the Panel must be satisfied that the term “investigation” includes an initial review of Mr. Trenholme’s conduct. The Panel’s view is that the term “investigation” contained in Rule 34 covers the Standards Council’s actions from the beginning to the end of the process. FP Canada received a serious allegation regarding Mr. Trenholme’s actions and began an investigation. It is fair to interpret the term, “investigation” broadly to include the Standard Council’s *initial review* of Mr. Trenholme’s conduct, which includes inquiries and fact gathering. In the Panel’s view, an “investigation” includes all steps from initial review to referral to a panel for hearing. Consequently, Rule 34 would cover the alleged misconduct, and the Panel is of the view that it is fair to grant leave to amend to plead Rule 34. The Panel has authority to grant leave to amend the Statement of Allegations in accordance with Article 5.1 of the Disciplinary Rules and Procedures.²

CONCLUSION AND ORDER

17. For the reasons set out above, the Panel has determined that it does not have jurisdiction to make a finding under Rule 33. However, the Panel grants leave to the Standards Council to amend the Statement of Allegations to plead a breach of Rule 34 of the Rules of Conduct. The Panel has not made a decision on the merits of the allegations under Rule 34.

18. Within 10 days of the date of this decision, the Standards Council is directed to serve Mr. Trenholme with an Amended Statement of Allegations, and file a copy with the Secretary to the Hearing Panel.

19. Mr. Trenholme shall have 30 days following service of the Amended Statement of Allegations to respond to the allegations by serving any evidence or submissions on the Standards Council and filing a copy with the Secretary to the Hearing Panel.

² <https://www.fpcanada.ca/docs/default-source/enforcement/disciplinary-rules-and-procedures.pdf>

DATED this 11th day of November, 2021



Peter Jong, CFP[®], Chair of the Hearing Panel



Stuart Dollar, CFP[®], Hearing Panel Member



Mark Bailey, Hearing Panel Member