



REPORT ON DISCIPLINARY ACTION

Details of Hearing: James Gerard Carney, CFP® (Brampton, ON)

On June 28, 2018, a Financial Planning Standards Council (FPSC®) Discipline Hearing Panel accepted a Joint Settlement Agreement between FPSC and James Gerard Carney, CFP® and ordered that Mr. Carney receive a Letter of Reprimand.

Background

Mr. Carney was certified by FPSC as a CERTIFIED FINANCIAL PLANNER® professional in August 2010. He does not have a prior discipline history with FPSC.

In April 2017, Mr. Carney was fined by a regulatory body for engaging in authorized discretionary trading and acting on instructions from a third party.

Admitted Conduct

In the Settlement Agreement with FPSC, Mr. Carney admitted that he:

- Processed redemptions to his client's accounts based on instructions from someone other than the client, absent the client's authorization, contrary to Principles 1, 2, 5, 7 and 8 of the Code of Ethics, and Rules 2 and 15 of the Rules of Conduct;
- Processed redemptions from three accounts of a client without the client's authorization, contrary to Principles 1, 2, 5, 7 and 8 of the Code of Ethics, and Rules 2 and 15 of the Rules of Conduct;
- Failed to perform services in accordance with the applicable laws, regulations, rules and established policies, contrary to Rule 18 of the Rules of Conduct.

Applicable Standard

The underlying conduct occurred between 2012 and 2014, and was, accordingly, governed by the:

- *Standards of Professional Responsibility for CFP® Professionals and FPSC® Registered Candidates*, in force from November 2011 to February 2014; and
- *Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1™ Certificants in Financial Planning*, in force from March 2014 to September 2014.

FPSC 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 6.8 of the FPSC *Disciplinary Rules and Procedures*. In reaching this conclusion, the Hearing Panel noted, among other things, that:

- No clients were harmed;
- FPSC did not receive any client complaints; and
- Mr. Carney has put measures in place to avoid similar misconduct in the future.

The Panel accepted the joint proposed Penalty and on July 27, 2018, Ordered that:

- a. Mr. Carney is to receive a Letter of Reprimand from the Hearing Panel;
- b. Prior to December 31, 2018, in addition to completing the 25 hours of Continuing Education (CE) activities required of every FPSC certificant, Mr. Carney shall, at his own expense, successfully complete:
 - i. An additional two (2) hours of FPSC-accredited CE in the category of Professional Responsibility; and
 - ii. An additional three (3) hours of FPSC-accredited CE in the category of Practice Management;
- c. Mr. Carney shall provide proof of completion of the 30 hours of CE credits to FPSC by December 31, 2018; and
- d. Mr. Carney shall pay costs to FPSC of \$4,000, which are due to FPSC on or before September 1, 2018.

On August 8, 2018, Mr. Carney paid costs in full to FPSC, in the amount of \$4,000.