



Guidance

Anonymous Case Histories – 1

Code Provisions: [CFP® Code of Ethics, Rule 601](#)

Issue: Whether the CERTIFIED FINANCIAL PLANNER® professional (identified herein as “A”) violated the Code of Ethics Rules by including critical commentary in a proprietary publication regarding a publication by another CFP professional identified herein as “B”.

Background: In the most recent editions of his publication, A included a review of publications released by B on a similar topic. A’s comments were arguably derogatory and inflammatory. A knew B personally.

Position of Director upon Investigation:

After careful consideration of the evidence in this matter, the Director resolved the complaint with a caution. A Hearing Panel may have viewed A’s activities to contravene the spirit of the Code and the standard of professionalism expected of all CFP professionals towards both the public and each other. The fact that A and B had a past personal relationship, heighten the personal impact of A’s comments.

Anonymous Case Histories – 2

Code Provisions: [CFP® Code of Ethics, Rule 601](#)

Issue: Whether the CFP professional’s conduct in criticizing, in an e-mail, the advice given by the complainant (a non CFP professional) regarding a particular investment violated the Code of Ethics.

Background: The complainant advised the client against investing in a particular product that the CFP professional was recommending to the client. The CFP professional authored an e-mail to the client, criticizing the complainant’s recommendation. The CFP professional’s e-mail included language which was personally critical of the complainant and which may have lacked civility. In making the complaint to FPSC, the complainant alleged that the comments were unprofessional and slanderous.

In response to the complaint, the CFP professional maintained that the e-mail was part of a confidential exchange and that the comments were taken out of context. The CFP professional also argued his years of experience qualified him to provide a critique of what he viewed to be questionable or inaccurate information.

Position of Director upon Investigation:

After careful consideration, the Director resolved the complaint with a caution. The CFP professional was reminded that it is very difficult to restrict the editing and circulation of e-mails, even where they may be confidential. The lack of in-person communication can give rise to a situation where statements are taken out of context. The CFP professional was reminded of his obligation to ensure that all communications are professional and in keeping with the spirit of the Code of Ethics. Critiques can be provided with tact and diplomacy, preserving the professional level of the exchange.

In reaching the decision to resolve the complaint by way of a caution, the following factors were viewed as mitigating factors:

1. The CFP professional had been a member in good standing for over 10 years with no prior complaints;
2. The e-mail of concern was part of a chain of e-mails which provided additional context; and
3. The CFP professional's attempts (though unsuccessful) to contact the complainant with a view towards resolution of the concerns.

Anonymous Case Histories – 3

Code Provisions: [CFP® Code of Ethics, Rule 607, 705](#)

Issue: Whether the CFP professional violated Code of Ethics by failing to properly supervise an assistant.

Background: The CFP professional and the assistant would attend meetings with the client. During the meetings the assistant would express views and opinions on various investments. This conduct left the client with the impression that the assistant was registered and qualified to make such investment recommendations. In addition, on occasion, the assistant would provide the client with personal, non-financial assistance, during which time opinions on various investments would be made. The MFDA reviewed a similar complaint, and issued a warning to the CFP professional.

Position of Director upon Investigation:

After careful consideration, the Director resolved the complaint with a caution. The CFP professional was reminded of the responsibilities imposed by Rules 607 and 705 of the Code to diligently monitor the activities of any employee under their management, to ensure clients are properly dealt with, and that the requirements of other governing regulatory bodies are complied with.

In reaching the decision to resolve the complaint by way of a caution, the following factors were viewed as mitigating factors:

1. The CFP professional terminated the services of the assistant; and
2. The complainant continued to solicit the assistant's advice after becoming aware of assistant's lack of qualifications.

Anonymous Case Histories - 4

Code Provisions: CFP® Code of Ethics, Rule 202, 601

Issue: Whether the CFP professional's conduct in an exchange of e-mails with the complainants, copied to the client, violated Code of Ethics.

Background: The CFP professional and the complainant, a financial services provider who was not a CFP professional, agreed to provide joint service to an elderly client. During the course of this arrangement, relations became strained and a series of increasingly acrimonious e-mails were exchanged between the CFP professional and the complainant, on which the client was copied.

Position of Director upon Investigation:

After careful consideration, the Director resolved the complaint with a caution. In reaching the decision to resolve the complaint by way of a caution, the following factors were viewed as mitigating factors:

1. The CFP professional had been a member in good standing for over 10 years with no prior complaints; and
2. The CFP professional had been very forthright and cooperative with FPSC during the investigation.