Guidance

Anonymous Case Histories – 1

Code Provisions: CFP® Code of Ethics, Principles 3, 5 & 7 and Rules 301, 501 & 705

Issue: Whether the CERTIFIED FINANCIAL PLANNER® professional violated the Code of Ethics ("Code") Principles 3 (Competence), 5 (Confidentiality) and 7 (Diligence) and Rules 301, 501 and 705 by; i) preparing clients' tax returns without being aware of CRA processes and filling deadlines; and ii) not securing the confirmation to invest from the clients prior to executing an investment.

Background: While preparing married clients' annual tax returns, the CFP professional recommended that the clients request a reassessment of prior years returns to effect pension credit splitting. Such a request was made and processed by the CRA. As a result of the reassessment, one client enjoyed a tax saving while the other faced a significant tax liability. The CFP professional appeared to have been unaware of the tax implications of the pension credit splitting advice. He failed to prepare draft returns incorporating the credit splitting to determine the tax implications and review them with the clients, prior to filing with the CRA.

The clients requested the reassessment (and credit splitting) be reversed. Applications for the reversal were filed by the CFP professional for both clients at different times. Issues regarding Power of Attorney delayed the processing of one of the applications by CRA. The CFP was apparently unaware of CRA filling deadline, and failed to advise the clients of the accumulating interest liability pending CRA's decisions on the reversal request.

In addition, the clients approached the CFP professional with respect to an investment and advised the CFP professional that they would invest with him if he could match it. The CFP professional advised the clients that he would be able to match the rate of investment quoted by another firm, by waving his fees, which he did. Notwithstanding the waiver of fees, he fell short of the clients' desired rate of investment. While there was only a 0.5% difference in rate over 5 years, this difference resulted in a monetary loss of less than $200. As the rate was not what the client originally agreed to, the CFP professional required confirmation to invest from the clients before the investment was executed.

Position of Director upon Investigation:

Lack of attention to internal administrative policies, investment details, and CRA processes, resulted in missed deadlines and CRA interest costs being assessed against the clients. While not in clear violation of the Code, a Hearing Panel may have found the CFP professional to contravene the intended spirit of those Rules and Principles.

Consideration was given to the following factors:

1. Length of the CFP professional’s professional relationship with the clients and his history of good service provided; and
2. The fact that the CFP professional had no prior disciplinary history with FPSC.