



## Guidance

### Anonymous Case Histories – 1

Code Provisions: **FPSC Fitness Standards, FPSC's Rules of Conduct: Rule 2 and 18**

Background: A complaint was filed by FPSC® following its review of two financial industry regulator's decisions, which resulted in a suspension of the CERTIFIED FINANCIAL PLANNER® professional's insurance license by the Financial Services Commission of Ontario and the Investment Industry Regulatory Organization of Canada.

The CFP® professional recommended an investment in a segregated fund, that was purchased by seven clients, and mistakenly advised the clients that the product had a 100% guarantee at maturity when, in fact, it only had a 75% guarantee at maturity. When the CFP professional was questioned about the guarantee feature by one of the clients, the CFP professional assured the client that there was a 100% guarantee at maturity and undertook to provide a written confirmation from the institution of the misrepresented feature. The CFP professional subsequently, fabricated a letter purporting to confirm the incorrect information and provided the letter to the client.

Pursuant to FPSC Fitness Standards, in the Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1™ Certificants in Financial Planning, a revocation or suspension of financial services license or registration (unless administrative in nature) is considered unacceptable and may result in a bar to an individual becoming or remaining certified by FPSC.

#### Conduct Review Panel's Decision:

The Conduct Review Panel (the "CRP") considered the circumstances of the conduct that gave rise to the presumptive bar to certification, the CFP professional's request for reconsideration, and whether the broader public interest may have been affected by the CFP professional's actions.

The CRP determined that in the unique circumstances present in this matter, the certification with FPSC be allowed but that the CFP professional would benefit from a Letter of Guidance and Advice. The CRP reminded the CFP professional of his professional obligations pursuant to Rule 2 and 18 of the FPSC® Rules of Conduct, which provide:

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 18 - A CFP professional shall perform financial planning in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities including FPSC.

## Anonymous Case Histories – 2

Code Provisions: **FPSC Fitness Standards, FPSC's Code of Ethics: Principle 6 and 7, FPSC's Rules of Conduct: Rule 18**

Background: A complaint was filed by FPSC® following its review of a financial industry regulator's decision, which resulted in a suspension of the CERTIFIED FINANCIAL PLANNER® professional's financial services license by a regulatory body.

The CFP professional breached client confidentiality by preparing summaries for clients who were spouses, and disclosing individual account information in addition to joint account holdings on the same statement without first obtaining the clients' express consent. The CFP professional also failed to act diligently and prudently, in his capacity as a CFP professional, by failing to speak directly with clients for whom he processed transactions.

Pursuant to FPSC Fitness Standards, in the Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1® Certificants in Financial Planning, a revocation or suspension of financial services license or registration (unless administrative in nature) is considered unacceptable and may result in a bar to an individual becoming or remaining certified by FPSC.

### Conduct Review Panel's Decision:

The Conduct Review Panel (the "CRP") considered the circumstances of the conduct that gave rise to the presumptive bar to certification, the CFP professional's request for reconsideration, and whether the broader public interest may have been affected by the CFP professional's actions.

Having regard to the above, the CRP directed that the CFP professional be permitted to remain certified by FPSC. The CRP determined, however, that the CFP professional would benefit from a Letter of Guidance and Advice. The CRP reminded the CFP professional of his professional obligations pursuant to Principles 6 and 7 of the FPSC® Code of Ethics, and Rule 18 of the FPSC® Rules of Conduct, which provide:

Principle 6 - A CFP professional shall maintain confidentiality of all client information. Confidentiality requires that the client information be secured, protected and maintained in a manner that allows access only to those who are authorized. A relationship of trust and confidence with the client can be built only on the understanding that personal and confidential information will be collected, used and disclosed only as authorized.

Principle 7 - A CFP professional shall act diligently when providing advice and/or services to clients. Diligence is the degree of care and prudence expected from CFP professionals in the handling of their clients' affairs. Diligence requires fulfilling professional commitments in a timely and thorough manner and taking due care in guiding, informing, planning, supervision and delivering financial advice and/or services to clients.

Rule 18 - A CFP professional shall preform financial planning in accordance with applicable laws, regulations, rules or established policies of government agencies and other applicable authorities including FPSC.

## Anonymous Case Histories – 3

Code Provisions: **FPSC's Code of Ethics: Principle 2, FPSC's Rules of Conduct: Rule 1 and 2**

Background: FPSC® commenced formal investigation into the conduct of two FPSC Level 1® Certificants in Financial Planning following receipt of two complaints from the Canadian Securities Institute's (CSI) Student Ethics Committee. The complaints involved allegations in respect of the FPSC Level 1 Certificants' conduct while enrolled in the CSI Capstone Course for CFP® Certification. The FPSC Level 1 Certificants were found to have engaged in academic misconduct by the Student Ethics Committee.

### Conduct Review Panel's Decision:

The Conduct Review Panel (the "CRP") was troubled by the FPSC Level 1 Certificants' conduct noting that such conduct reflects adversely on their integrity and professionalism as a FPSC Level 1 Certificant in Financial Planning. The CRP noted that finding of academic misconduct may, in certain circumstances, give rise to a finding that an individual engaged in conduct contrary to the Standards of Professional Responsibility for CFP Professionals and FPSC Level 1 Certificants in Financial Planning.

Having regard to the circumstances of these matters, the CRP determined that, it is appropriate and in the public interest, to provide guidance and advice to assist the FPSC Level 1 Certificants in avoiding circumstances like this in the future.

The CRP reminded the FPSC Level 1 Certificants of their professional obligations pursuant to Principles 2 of the FPSC® Code of Ethics, and Rule 1 and 2 of the FPSC® Rules of Conduct, which provide:

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.

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.

## Anonymous Case Histories – 4

Code Provisions: **FPSC's Code of Ethics: Principle 2, FPSC's Rules of Conduct: Rule 2**

Background: A complaint was filed by FPSC® following its review of a financial industry regulator's decision, in which a CERTIFIED FINANCIAL PLANNER® professional was found to have obtained, maintained and used to process transactions, numerous blank pre-signed account forms or photocopies of partially complete pre-signed account forms.

Conduct Review Panel's Decision:

The Conduct Review Panel (the "CRP") was troubled by the CFP professional's conduct noting that use of blank pre-signed account forms reflects poorly on the integrity of a CFP professional. In determining that this matter would be resolved on the basis of guidance and advice, the CRP noted that the investigation revealed that the troubling conduct ceased in early 2013.

The CRP reminded the CFP professional of his professional obligations pursuant to Principle 2 of the FPSC® Code of Ethics, and Rule 2 of the FPSC® Rules of Conduct, which provide:

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.

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.

## Anonymous Case Histories – 5

Code Provisions: **FPSC's Code of Ethics: Principle 2 and 8, FPSC's Rules of Conduct: Rule 2**

Background: FPSC® commenced a formal investigation into the conduct of a CERTIFIED FINANCIAL PLANNER® (CFP®) professional following receipt of complaint from another CFP professional. The complainant alleged that the subject CFP professional communicated false and unethical statements to clients with a view to discrediting the Complainant and dissuading the clients from transferring their investments.

Conduct Review Panel's Decision:

The Conduct Review Panel (the "CRP") found that while there was no evidence that the CFP professional intentionally provided false financial information to the clients, the CFP professional was reckless in his conduct as he made assumptions based on incomplete or incorrect information. The CFP professional made assertions based on his assumptions knowing that he was unable to confirm the underlying data. In addition, he made personal comments regarding the Complainant's professional qualifications which were inaccurate and misleading, and then failed to take steps to correct the false impression left with clients.

The CFP professional's recklessness and willingness to draw conclusions based on unverifiable assumptions caused the CRP concern regarding the CFP professional's diligence, objectivity and professionalism. Such conduct reflects poorly on the CFP professional's integrity.

The CRP reminded the CFP professional of his professional obligations pursuant to Principles 2 and 8 of the FPSC<sup>®</sup> Code of Ethics, and Rule 2 of the FPSC<sup>®</sup> Rules of Conduct, which provide:

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 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.