



REPORT ON DISCIPLINARY ACTION

Details of Hearing: Patrick Lumbers (North York, ON)

On April 21, 2020, an FP Canada Standards Council™ Discipline Hearing Panel accepted a Joint Settlement Agreement between the FP Canada Standards Council and Patrick Lumbers, CFP® professional. The Panel ordered, among other penalties, that Mr. Lumbers' certification and entitlement to use the CFP® marks be suspended for a period of six months.

Background

Mr. Lumbers was certified by FP Canada™, then the Financial Planning Standards Council (FPSC®), as a CERTIFIED FINANCIAL PLANNER® professional in February 1998, and has consistently renewed his certification. He does not have a prior discipline history with the Standards Council.

In June 2018, the Standards Council instructed an independent investigation into Mr. Lumbers' conduct, following review of a news release issued by another financial services regulator. The Standards Council's investigation focussed on allegations that Mr. Lumbers made unsuitable recommendations, and disregarded direction from his superiors, by investing the funds of an elderly client into an unsuitable product that was subject to Deferred Sales Charge (DSC) fees.

Admitted Conduct

In the Settlement Agreement with the Standards Council, Mr. Lumbers admits, among other things, that he:

- Failed to exercise reasonable and prudent professional judgement in providing financial planning, contrary to Principle 1 of the *Code of Ethics and Rules 15 and 16 of the Rules of Conduct*, when he recommended his 92 year old client purchase funds that were subject to a seven year deferred sales charge schedule. Mr. Lumbers knew or ought to have known these investment recommendations were not appropriate given his clients age, needs, objectives and personal circumstances;
- Failed to act with integrity, contrary to Principle 2 of the *Code of Ethics and Rule 2 of the Rules of Conduct*, by disregarding direction or advice from his manager regarding the allocation of the client's funds which resulted in 89% of her available assets being placed in funds subject to DSC fees;
- Failed to meet his disclosure obligations and misled FP Canada, by failing to report that he was the subject of another regulator's investigation, when submitting his certification renewal application forms for the years 2016/2017, 2017/2018, and 2018/2019, contrary to Rule 25 of the *Rules of Conduct*; and

- Failed to provide his professional services in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities, contrary to Rule 24 of the *Rules of Conduct*.

Applicable Standard

The underlying conduct took place between May 2013 and March 2014, and March 2016 to March 2018. Accordingly, his conduct was governed by the:

- Standards of Professional Responsibility for CFP® Professionals and FPSC® Registered candidates, in force from November 2011 to February 2014;
- Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1™ Certificant in Financial Planning, in force from March 2014 to September 2014;
- Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1™ Certificant in Financial Planning, in force from March 2016 to May 2017; and
- Standards of Professional Responsibility for CFP® Professionals and FPSC Level 1™ Certificant in Financial Planning, in force from June 2017 to December 2018.

FP Canada Standards Council 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 6.7 of the *Disciplinary Rules and Procedures*. The Hearing Panel accepted the joint proposed Penalty and, on April 29, 2020, ordered that:

- Mr. Lumbers' CFP Certification and entitlement to use the CFP marks shall be suspended for a period of three (6) months, until October 29, 2020;
- During the suspension period, Mr. Lumbers shall continue to take Continuing Education (CE) courses. Mr. Lumbers shall complete, at this own expense, the required twenty-five (25) hours of CE in 2020. In addition, Mr. Lumbers shall complete at his own expense, five (5) CE credits in the financial planning CE category, through the provider of Mr. Lumbers' choosing, by April 29, 2021;
- Mr. Lumbers will complete, at his own expense, the "Fostering and Protecting the Financial Wellbeing of Aging Investors" course provided by Investors Group (or an alternative course approved by the Standards Council), by April 29, 2021;
- Mr. Lumbers shall provide proof of completion of the CE credits to the Standards Council by April 29, 2021; and
- Mr. Lumbers pay costs to FP Canada in the amount of \$1,500 on or before June 29, 2020.