

FP Canada Standards Council™
and
Brian Walter Wilkinson

STATEMENT OF ALLEGATIONS

THE FORMER CFP® PROFESSIONAL

1. Brian Walter Wilkinson ("Mr. Wilkinson" or the "Respondent") was certified by FP Canada™, then the Financial Planning Standards Council (FPSC®), as a CERTIFIED FINANCIAL PLANNER® professional, in April 1999. Mr. Wilkinson consistently renewed his certification until March 2021, when his certification lapsed due to voluntary non-renewal. Mr. Wilkinson does not have a discipline history with FP Canada.
2. Mr. Wilkinson was registered with FundEX Investments Inc. ("FundEX") in Ontario from March 1999 to December 2011 and in British Columbia from January to December 2011. Between March 2012 and June 2018, Mr. Wilkinson was registered as a dealing representative in Ontario with Sterling Mutuals Inc. ("Sterling Mutuals"). Sterling Mutuals terminated Mr. Wilkinson's registration on June 29, 2018. He is not currently registered as a mutual fund dealing representative in either British Columbia or Ontario.
3. Mr. Wilkinson resides in Kitchener, Ontario and has been a Financial Advisor with Wilkinson Financial Intermediary Services since 1990 as well as a Referring Partner with R.N. Croft Financial Group Inc. ("R.N. Croft") since April 2016.

HISTORY OF THE PROCEEDINGS

4. This matter came to the attention of the FP Canada Standards Council™ (the "Standards Council") when Mr. Wilkinson reported, on his 2018/2019 CFP® Renewal Application form, that the Mutual Fund Dealers Association of Canada ("MFDA") had opened an investigation into his conduct. The investigation was based on a complaint made in late October 2017 by his former clients, married couple DD and BD to his employer, at the time, Sterling Mutuals, who reported the complaint to the MFDA.

5. Amongst other allegations, it was alleged that Mr. Wilkinson failed to properly inform DD and BD about the risks of holding investments concentrated in precious metal bullion funds. At the time of their complaint to Sterling Mutuals, the concentration in precious metal bullion funds was 92.4% in DD's account, 100% in BD's account and 67.1% in their jointly held account.
6. In addition, between March and July 2017, Mr. Wilkinson placed an advertisement on Google directing users to his website which included the phrase "*[f]ully customized discretionary assets management for discriminating investors*", notwithstanding that Mr. Wilkinson was not permitted to engage in discretionary trading activities.
7. In the MFDA Decision and Reasons dated January 29, 2021, the MFDA Hearing Panel found that Mr. Wilkinson failed to inform clients about the risk associated with the investments, provided communications to clients which contained misleading or incomplete information and issued an advertisement which was not approved by the Member.
8. By Order dated June 28, 2021, Mr. Wilkinson was suspended by the MFDA for a period of 3 months and fined \$25,000.
9. On March 8, 2021, the Standards Council instructed an independent investigation into Mr. Wilkinson's conduct.
10. Mr. Wilkinson initially responded and cooperated with the Standards Council's investigation; however, after choosing not to renew his certification in March 2021, Mr. Wilkinson indicated that he did not intend to cooperate with the Standard Council's investigation and then failed to respond to requests for written representations.
11. On October 6, 2021, the Conduct Review Panel ("CRP") convened and referred the allegations set out herein to a Hearing Panel.

NOTICE

12. Further to the direction of the CRP, and in accordance with Article 5.1 of the FP Canada Standards Council Disciplinary Rules and Procedures, I hereby give notice of the Standards Council's request that a hearing date be set with respect to the matter identified as: FP Canada Standards Council™ and Brian Walter Wilkinson.
13. The Standards Council requests that the hearing in respect of this matter be held in writing.

APPLICABLE STANDARDS

14. 14. The conduct subject to the allegations set out below occurred between June 2006 and October 2017 and Mr. Wilkinson began failing to cooperate in July 2021. Accordingly, Mr. Wilkinson's conduct is governed by the Code of Ethics or *Standards of Professional Responsibility* in force for the period from April 2005 to

December 2018 and commencing in July 2021. The applicable Principles and Rules are set out at **Appendix “A”**.

ALLEGATIONS

The Standards Council makes the following allegations against the Respondent:

1. Between June 2006 and October 2017, the Respondent failed to disclose the risks of investing in precious metal bullion funds as well as the risks of over concentration in these funds to his clients, DD and BD, contrary to Rule 401 and Principle 4 of the Code of Ethics in effect between April 2005 and October 2011; and Principle 5 of the *Standards of Professional Responsibility* in effect between November 2011 and December 2018.
2. Between June 2006 and October 2017, the Respondent recommended and implemented an over concentration of precious metal bullion investments to his clients, DD and BD, which increased the risk level of the investment strategy, and thereby failed to recommend and implement prudent strategies and failed to exercise reasonable and prudent professional judgement in providing financial planning, contrary to Rules 201, 202 and 702 and Principle 7 of the Code of Ethics in effect between April 2005 and October 2011; and Rules 15, 16 and 17 and Principles 1 and 7 of the *Standards of Professional Responsibility* in effect between November 2011 and December 2018.
3. Between March and July 2017, Mr. Wilkinson placed a false or misleading advertisement suggesting that he was offering discretionary trading services when he was not permitted to do so, contrary to Rule 14 of the *Standards of Professional Responsibility* in effect between March 2016 and December 2018.
4. By engaging in conduct that contravened MFDA Rules 2.2.1, 2.8.2 and 2.7.3, as found by the MFDA Hearing Panel by Decision and Reasons dated January 29, 2021, the Respondent failed to provide professional services in accordance with applicable laws, regulations, rules or established policies of governmental agencies or other applicable authorities, contrary to Rule 24 of the *Standards of Professional Responsibility* in force between January 2020 and June 2021.
5. Between July 20, 2021 and September 1, 2021, by failing to respond to requests for written representations, the Respondent failed to cooperate fully with a FP Canada Standards Council investigation, contrary to Rule 36 of the *Standards of Professional Responsibility* in force commencing in July 2021.

Dated the 18th day of November, 2021

"Tamara Center"

Tamara Center
Director, Professional Conduct and Enforcement
Counsel to FP Canada Standards Council™

APPENDIX “A”

Applicable Principles and Rules of the <i>CFP™ Code of Ethics</i> , April 2005	
<p>Principle 4: Fairness A CFP professional shall perform financial planning in a manner that is fair and reasonable to clients, principals, partners, and employers, and shall disclose conflicts of interest in providing such services.</p>	
<p>Principle 7: Diligence A CFP professional shall act diligently in providing financial planning.</p> <p>Diligence is the provision of services in a prompt and thorough manner. Diligence also includes proper planning for and supervision of the rendering of professional services.</p>	
<u>Rule 201</u>	A CFP professional shall exercise reasonable and prudent professional judgment in providing financial planning.
<u>Rule 202</u>	A CFP professional shall act in the interests of the client.
<u>Rule 401</u>	<p>A CFP professional shall make timely written disclosure of all material information relative to the professional relationship. Written disclosure that includes the following information are considered to be in compliance with this Rule:</p> <ul style="list-style-type: none"> a) A statement indicating whether the CFP professional’s compensation arrangements involve fee-for service, commission, salary, or any combination of the foregoing. A CFP professional shall not holdout as a fee-for-service practitioner if the CFP professional receives commissions or other forms of economic benefit from parties other than the client; b) Where financial products are used in implementing the planning strategy, the client must be informed of the basis upon which the CFP professional is compensated. To this end, the CFP professional is government by the accepted sales disclosure guidelines and regulations covering securities, mutual funds, real estate, insurance and other financial products utilized in fulfilling the plan; c) A statement describing the material agency or employment relationships a CFP professional (or his/her firm) has with third parties, including the nature of the compensation arrangements; d) A statement identifying any conflicts of interest; and e) The information required by all laws and regulations applicable to the relationship in a manner complying with such.

Rule 702	A CFP professional shall make and/or implement only those recommendations that are suitable for the client.
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Applicable Principles and Rules of the CFP® Code of Ethics, January 2010	
Principle 4: Fairness	
A CFP professional shall perform financial planning in a manner that is fair and reasonable to clients, principals, partners, and employers, and shall disclose conflicts of interest in providing such services.	
Principle 7: Diligence	
A CFP professional shall act diligently in providing financial planning.	
Diligence is the provision of services in a prompt and thorough manner. Diligence also includes proper planning for and supervision of the rendering of professional services.	
Rule 201	A CFP professional shall exercise reasonable and prudent professional judgment in providing financial planning.
Rule 202	A CFP professional shall act in the interests of the client.
Rule 401	<p>A CFP professional shall make timely written disclosure of all material information relative to the professional relationship. Written disclosures that include the following information are considered to be in compliance with this Rule:</p> <ul style="list-style-type: none"> a) A statement indicating whether the CFP professional’s compensation arrangements involve fee-for-service, commission, salary, or any combination of the foregoing. A CFP professional shall not holdout as a fee-for-service practitioner if the CFP professional receives commissions or other forms of economic benefit from other parties other than the client; b) Where financial products are used in implementing the planning strategy, the client must be informed of the basis upon which the CFP professional is compensated. To this end, the CFP professional is governed by the accepted sales disclosure guidelines and regulations covering securities, mutual funds, real estate, insurance and other financial products utilized in fulfilling the plan;

	<ul style="list-style-type: none"> c) A statement describing material agency or employment relationships a CFP professional (or his/her firm) has with third parties, including the nature of the compensation arrangements; d) A statement identifying conflicts of interest; and e) The information required by all laws and regulations applicable to the relationship in a manner complying with such.
Rule 702	A CFP professional shall make and/or implement only those recommendations that are suitable for the client.

Applicable Principles and Rules of the *Standards of Professional Responsibility for CFP® Professionals and FPSC® Registered Candidates, November 2011*

Principle 1: Client First

A CFP professional shall always place the client's interests first. Placing the client's interests first requires the CFP professional to act honestly and to place the client's interests ahead of his own and ahead of all other interests.

Principle 5: Fairness

A CFP professional shall be fair and open in all professional relationships. Fairness requires providing clients with what they should reasonably expect from a professional relationship, and includes honesty and disclosure of all relevant facts including conflicts of interest.

Principle 7: Diligence

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, supervising, and delivering financial advice and/or services to clients.

Rule 15

A CFP professional shall exercise reasonable and prudent professional judgment in providing financial planning.

Rule 16	A CFP professional shall make only those recommendations that are both prudent and appropriate for the client.
Rule 17	CFP professional shall implement only those strategies that are both prudent and appropriate for the client, unless the client provides specific written instructions to

the contrary.

Applicable Principles and Rules of the *Standards of Professional Responsibility for CFP® Professionals and FPSC Level1™ Certificants in Financial Planning*, March 2014

Principle 1: Client First

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Rule 15	A CFP professional shall exercise reasonable and prudent professional judgment in providing financial planning.
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Rule 16	A CFP professional shall make only those recommendations that are both prudent and appropriate for the client.
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Rule 17	CFP professional shall implement only those strategies that are both prudent and appropriate for the client, unless the client provides specific written instructions to the contrary.
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Applicable Principles and Rules of the *Standards of Professional Responsibility for CFP® Professionals and FPSC Level1™ Certificants in Financial Planning*, October 2014

Principle 1: Client First

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CFP professional shall implement only those strategies that are both prudent and appropriate for the client, unless the client provides specific written instructions to the contrary.

Applicable Principles and Rules of the *Standards of Professional Responsibility for CFP[®] Professionals and FPSC Level 1[®] Certificants in Financial Planning*, June 2015

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Applicable Principles and Rules of the *Standards of Professional Responsibility for CFP[®] Professionals and FPSC Level 1[®] Certificants in Financial Planning, March 2016*

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requires fulfilling professional commitments in a timely and thorough manner and taking due care in guiding, informing, planning, supervising, and delivering financial advice and/or services to clients.

Rule 14 Certificant shall not adopt any method of obtaining or retaining clients that lowers the standard of dignity of the profession. For greater certainty:

- a) A Certificant shall not make a false or misleading communication about the size, scope or areas of competence of their practice or of any organization with which the Certificant is associated;
- b) A Certificant shall not make false or misleading communications to the public or create unverifiable expectations regarding matters relating to financial planning or competence of the Certificant; and
- c) A Certificant shall not give the impression that they are representing the views of FPSC or any other group unless the Certificant has been authorized to do so.

Rule 15 A CFP professional shall exercise reasonable and prudent professional judgment in providing financial planning.

Rule 16 A CFP professional shall only make those recommendations that are both prudent and appropriate for the client.

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Applicable Principles and Rules of the *Standards of Professional Responsibility for CFP[®] Professionals and FPSC Level 1[®] Certificants in Financial Planning, June 2017*

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<u>Rule 14</u>	<p>Certificant shall not adopt any method of obtaining or retaining clients that lowers the standard of dignity of the profession. For greater certainty:</p> <ul style="list-style-type: none"> a) A Certificant shall not make a false or misleading communication about the size, scope or areas of competence of their practice or of any organization with which the Certificant is associated; b) A Certificant shall not make false or misleading communications to the public or create unverifiable expectations regarding matters relating to financial planning or competence of the Certificant; and c) A Certificant shall not give the impression that they are representing the views of FPSC or any other group unless the Certificant has been authorized to do so.
<u>Rule 15</u>	<p>A CFP professional shall exercise reasonable and prudent professional judgment in providing financial planning.</p>
<u>Rule 16</u>	<p>A CFP professional shall only make those recommendations that are both prudent and appropriate for the client.</p>
<u>Rule 17</u>	<p>CFP professional shall implement only those strategies that are both prudent and appropriate for the client, unless the client provides specific written instructions to the contrary.</p>

Applicable Principles and Rules of the *Standards of Professional Responsibility*, January 2020

<u>Rule</u> <u>24</u>	A Certificant shall provide their professional services in accordance with applicable laws, regulations, rules or established policies of governmental agencies and other applicable authorities, including FP Canada and the FP Canada Standards Council.
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Applicable Principles and Rules of the *Standards of Professional Responsibility*, July 2021

<u>Rule</u> <u>36</u>	A Certificant shall cooperate fully with a FP Canada Standards Council investigation of a complaint unless legally prevented from doing so. This rule applies equally to current and former Certificants.
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