

2016

Ethics for Financial Planners Online CE Course

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Disciplinary Rules and Procedures

ARTICLE 1: INTRODUCTION

Certified Financial Planner Board of Standards Inc. (CFP Board) has adopted a *Code of Ethics and Professional Responsibility (Code of Ethics)*, *Rules of Conduct* and *Financial Planning Practice Standards (Practice Standards)*, which establish the expected level of professional conduct and practice for CFP® professionals. CFP Board has also established the *Fitness Standards for Candidates and Professionals Eligible for Reinstatement (Fitness Standards)*.

To promote and maintain the integrity of its CFP® and CERTIFIED FINANCIAL PLANNER™ certification marks for the benefit of the clients and potential clients of CFP® professionals, CFP Board has the ability to enforce the provisions of the *Rules of Conduct* and *Practice Standards*. Adherence to the *Rules of Conduct* and compliance with the *Practice Standards* by CFP® professionals is required, with the potential for CFP Board sanctions against those who violate the regulations proscribed in these documents. CFP Board will follow the disciplinary rules set forth below when enforcing the *Rules of Conduct* and *Practice Standards*.

In the discussion that follows, CFP® professionals, candidates for CFP® certification, and professionals eligible for reinstatement may be referred to as “Respondents.”

ARTICLE 2: DISCIPLINARY AND ETHICS COMMISSION

2.1 Function and Jurisdiction of the Disciplinary and Ethics Commission

CFP Board’s Disciplinary and Ethics Commission (referred to herein as the “Commission”), formed pursuant to and governed by the bylaws of CFP Board, is charged

with the duty of investigating, reviewing and taking appropriate action with respect to alleged violations of the *Rules of Conduct*, alleged non-compliance with the *Practice Standards*, and conduct reviewed under the *Fitness Standards*, and shall have original jurisdiction over all such disciplinary matters and procedures.

2.2 Powers and Duties of the Commission

The powers and duties of the Commission include the following:

- (a) Periodically report to CFP Board's Board of Directors on the operation of the Commission;
- (b) Recommend amendments to these *Disciplinary Rules and Procedures*, subject to review and approval of CFP Board's Board of Directors; and
- (c) Recommend such other rules or procedures as may be necessary or appropriate to govern the internal operations of the Commission.

2.3 Powers and Duties of the CEO of CFP Board

Among the powers and duties of the CEO of CFP Board are appointing the Commission Chair and members and volunteers of the Commission. The CEO also oversees the Commission to ensure it follows established rules and procedures required to provide a fair process to participants.

2.4 Hearing Panel

A Hearing Panel shall consist of at least three persons, two of whom must be CFP® professionals. A Panel shall be comprised of two Commission members and one volunteer unless circumstances make it impractical. One member of each Hearing Panel shall serve as Chair of that hearing. The Chair shall rule on all motions, objections and other matters presented in the course of the hearing and must be a member of the Commission.

2.5 Disqualification

Commission members shall refrain from participating in any proceeding in which they, a member of their immediate family or a member of their firm have any interest or where such participation otherwise would involve a conflict of interest or the appearance of impropriety.

2.6 CFP Board Counsel

CFP Board Counsel refers to the staff attorney who conducts the investigation, makes the probable cause determination, and presents the case to the Hearing Panel. CFP Board Designated Counsel refers to the outside attorney who presents the case on CFP Board's behalf to the Hearing Panel. CFP Board Advisory Council refers to the attorney who acts in an advisory capacity in providing advice to the Hearing Panel and the Commission during the Ratification Meeting. No person shall act as both CFP Board Counsel and CFP Board Advisory Council during the same set of hearings.

ARTICLE 3: GROUNDS FOR DISCIPLINE

Misconduct by a Respondent, individually or in concert with others, including the following acts or omissions, shall constitute grounds for discipline, whether or not the act or omission occurred in the course of a client relationship:

- (a) Any act or omission which violates the provisions of the Rules of Conduct;
- (b) Any act or omission which fails to comply with the Practice Standards;
- (c) Any act or omission which violates the criminal laws of any State or of the United States or of any province, territory or jurisdiction of any other country, provided however, that conviction thereof in a criminal proceeding shall not be a prerequisite to the institution of disciplinary proceedings, and provided further, that acquittal in a criminal proceeding shall not bar a disciplinary action;
- (d) Any act which is the proper basis for professional suspension, as defined herein, provided professional suspension shall not be a prerequisite to the institution of disciplinary proceedings, and provided further, that dismissal of charges in a professional suspension proceeding shall not necessarily bar a disciplinary action;
- (e) Any act or omission which violates these Disciplinary Rules or which violates an order of discipline;
- (f) Failure to respond to a request by the CFP Board staff or obstruction of the Commission, or any panel thereof, or CFP Board staff in the performance of its or their duties;
- (g) Any false or misleading statement made to CFP Board.

The enumeration of the foregoing acts and omissions constituting grounds for discipline is not exclusive and other acts or omissions amounting to unprofessional conduct may constitute grounds for discipline.

ARTICLE 4: FORMS OF DISCIPLINE

In cases where no grounds for discipline have been established, the Commission may dismiss the matter as either without merit or with a cautionary letter. In all cases, the Commission has the right to require the Respondent to complete additional continuing education or other remedial work. Such continuing education or remedial work may be ordered instead of, or in addition to, any discipline listed below. Where grounds for discipline have been established, any of the following forms of discipline may be imposed.

4.1 Private Censure

The Commission may order private censure of a Respondent which shall be an unpublished written reproach mailed by the Commission to a censured certificant or registrant.

4.2 Public Letter of Admonition

The Commission may order that a Public Letter of Admonition be issued against a Respondent, which shall be a publishable written reproach of the Respondent's behavior. It shall be standard procedure to publish the Letter of Admonition in a press release or in such other form of publicity selected by the Commission.

4.3 Suspension

The Commission may order suspension for a specified period of time, not to exceed five (5) years, for those individuals it deems can be rehabilitated. In the event of a suspension, it shall be standard procedure to publish the fact of the suspension together with identification of the Respondent in a press release, or in such other form of publicity as is selected by the Commission. Respondents receiving a suspension may qualify for reinstatement to use the marks as provided in Article 15.

4.4 Revocation

The Commission may order permanent revocation of a Respondent's right to use the marks. In the event of a permanent revocation it shall be standard procedure to publish the fact of the revocation together with identification of the Respondent in a press release, or in such other form of publicity as is selected by the Commission.

ARTICLE 5: INTERIM SUSPENSION STATUS

Interim suspension is the temporary suspension by the Commission of a CFP® professional's right to use the marks for a definite or indefinite period of time, while proceedings conducted pursuant to these *Rules* are pending against the CFP® professional. Imposition of an interim suspension shall not preclude the imposition of any other form of discipline entered by the Commission in final resolution of the disciplinary proceeding.

5.1 Issuance of a Show Cause Order

Although a CFP® professional's right to use the marks shall not ordinarily be suspended during the pendency of such proceedings, when CFP Board receives evidence that a CFP® professional has engaged in conduct that poses an immediate threat to the public and the gravity of the conduct significantly impinges upon the stature and reputation of the marks, CFP Board Counsel may issue an Order to Show Cause why the CFP® professional's right to use the marks should not be suspended during the pendency of the proceedings.

5.2 Service

CFP Board shall serve the Order to Show Cause upon the CFP® professional either by personal service or by certified mail, return receipt requested, mailed to the last known address of the CFP® professional, as provided in Article 17.2.

5.3 Response

All responses to Orders to Show Cause shall be in writing and shall be submitted within twenty (20) calendar days from the date of service of the Order to Show Cause upon the CFP® professional. The CFP® professional shall, in the response, either request or waive the right to participate in the Show Cause Hearing.

5.4 Failure to Respond to the Order to Show Cause

If the CFP® professional fails to file a Response within the period provided in Article 5.3, that CFP® professional shall be deemed to have waived the right to respond and the allegations set forth in the Order to Show Cause shall be deemed admitted and an interim suspension will automatically be issued.

5.5 Show Cause Hearing and Settlement Procedures

Upon receiving the CFP® professional's response as provided in Article 5.3, a hearing shall be scheduled before no less than a quorum of the Commission. If so requested, the CFP® professional shall have the opportunity to participate at such hearing presenting arguments and evidence on his/her behalf. All evidence presented must be submitted to CFP Board Counsel with the CFP® professional's Response to the Order to Show Cause. Either party may make a motion at the hearing to admit additional evidence.

5.6 Interim Suspension

An interim suspension will be issued upon a showing of any of the factors listed in Section 5.1 above (Issuance of a Show Cause Order), unless the Hearing Panel determines that the CFP® professional has failed to provide evidence which establishes that the CFP® professional does not pose an immediate threat to the public and that the gravity of the nature of the conduct does not impinge upon the stature and reputation of the marks. The fact that a convicted or suspended CFP® professional is seeking appellate review of the conviction or professional discipline shall not limit the power of the Hearing Panel to impose an interim suspension.

5.7 Automatic Interim Suspension

An interim suspension shall immediately be issued without a hearing when CFP Board Counsel receives evidence of a conviction or professional discipline for any of the following conduct:

- (a) Felony conviction for any crime;
- (b) Misdemeanor conviction for fraud, misrepresentation or crimes of moral turpitude;
- (c) Revocation of a financial professional license (securities, insurance, accounting, or bank-related license, unless the revocation is administrative in nature.

CFP Board Counsel will notify the CFP® professional of the interim suspension by certified mail, return receipt requested, mailed to the CFP® professional's last known address.

5.8 Proceedings Subsequent to Interim Suspensions

After the issuance of an interim suspension or an automatic interim suspension, CFP Board Counsel shall continue to investigate. After CFP Board Counsel issues a complaint, the CFP® professional will have an opportunity to be heard in accordance with the Disciplinary Rules. An interim suspension is not subject to the right of appeal, however.

5.9 Automatic Reinstatement Upon Reversal of Conviction or Professional Discipline

A CFP® professional subject to a suspension under this Article shall have the suspension vacated immediately upon filing with the Commission a certificate demonstrating that the underlying criminal conviction or professional discipline has been reversed; provided, however, the reinstatement upon such reversal shall have no effect on any proceeding conducted pursuant to these *Procedures* then pending against a CFP® professional.

ARTICLE 6: INVESTIGATION

6.1 Commencement

Proceedings involving potential ethics violations shall be commenced upon: (1) receipt of information by CFP Board Counsel indicating a potential violation of the *Rules of Conduct* or non-compliance with the *Practice Standards*; or (2) disclosure by a Respondent of any matter constituting a potential of the *Rules of Conduct* or non-compliance with the *Practice Standards*.

6.2 Procedures for Investigation

Upon receipt of a request for investigation containing allegations which, if true, could give rise to a violation of the *Rules of Conduct* or non-compliance with the *Practice Standards*, or upon the acquisition by CFP Board Counsel of information which, if true, could give rise to a violation of the *Rules of Conduct* or non-compliance with the *Practice Standards*, the Respondent shall be given written notice by CFP Board Counsel that the Respondent is under investigation and of the general nature of the allegations. The Respondent shall have thirty (30) calendar days from the date of notice of the investigation to file a written response to the allegations with the CFP Board.

- (a) *No Response*. At the expiration of the thirty (30) calendar-day period if no response has been received, CFP Board Counsel shall be given notice of a second request for information via certified mail. The Respondent shall have 20 calendar days from the date of the second request to file a written response to the allegations with CFP Board. At the expiration of the 20 calendar-day period if no response has been received, the matter shall be referred to the Commission.
- (b) *Adverse Inference*. Failure to provide requested information may give rise to an adverse inference with respect to the underlying subject matter.
- (c) *Response*. Upon receipt of a response, CFP Board Counsel shall compile all documents and materials and commence probable cause determination procedures as soon thereafter as is reasonably practicable.

6.3 Probable Cause Determination Procedures

CFP Board Counsel shall determine if there is probable cause to believe grounds for discipline exists and shall either; (1) dismiss the allegations as not warranting further inves-

tigation at this time; (2) dismiss the allegations with a letter of caution indicating that CFP Board Counsel has determined that based on the available evidence, the Respondent's conduct may have violated the *Rules of Conduct* or not complied with the *Practice Standards* but does warrant referral to the Commission; or (3) begin preparation and processing of a Complaint against the Respondent in accordance with Article 7. For matters that are dismissed, CFP Board Counsel may reserve the right to reopen the investigation in the future if appropriate.

6.4 Disposition

CFP Board Counsel shall conduct CFP Board's investigation as expeditiously as reasonably practicable.

ARTICLE 7: COMPLAINT - ANSWER – DEFAULT

7.1 Complaint

An original Complaint shall be prepared by CFP Board Counsel and forwarded to the Respondent. Copies of the Complaint shall be included with the materials provided to the Hearing Panel in advance of the hearing. The Complaint shall reasonably set forth the grounds for discipline with which the Respondent is charged and the conduct or omission which gave rise to those charges.

7.2 Service of the Complaint

CFP Board Counsel shall promptly serve the Complaint upon the Respondent either by personal service or by certified mail, return receipt requested, mailed to the last known address of the Respondent or as provided in Article 17.2.

7.3 Answer

All Answers to Complaints shall be in writing. The Answer shall be submitted within twenty (20) calendar days from the date of service of the Complaint on the Respondent. The Respondent shall file an original of such Answer with CFP Board. A copy of the Answer shall be included with the materials provided to the Hearing Panel in advance of the hearing. In the Answer, the Respondent shall respond to every material allegation contained in the Complaint. In addition, the Respondent shall set forth in the Answer any defenses or mitigating circumstances.

7.4 Default and Orders of Revocation and Denial

If the Respondent fails to file an Answer within the period provided by Article 7.4, or fails to pay the hearing costs assessed by CFP Board except when CFP Board Counsel has granted a waiver, such Respondent shall be deemed to be in default, and the allegations set forth in the

Complaint shall be deemed admitted. In such circumstance, CFP Board Counsel shall serve upon the Respondent an Order of Revocation. Such orders shall state clearly and with reasonable particularity the grounds for the revocation Respondent's right to use the marks. These Orders are subject to the Respondent's right of appeal as outlined in Article 11.

7.5 Request for Appearance

Upon the filing of an Answer, the Respondent may request an appearance at the hearing before the Hearing Panel, at which the Respondent may present arguments, witnesses and evidence on his/her behalf.

7.6 Request for Extension or Continuance

A Respondent may request an extension to answer the Complaint or a continuance of a hearing no later than within 20 calendar days from the date of service of the Complaint. Extensions and continuances are generally disfavored by CFP Board Counsel but may be granted as deemed appropriate. CFP Board Counsel will not grant more than one continuance.

ARTICLE 8: DISCOVERY AND EVIDENCE

8.1 Discovery

Discovery of a disciplinary case may be obtained only after a Complaint has been issued against a Respondent. A Respondent may obtain copies of all documents in the Respondent's disciplinary file which are not privileged and which are relevant to the subject matter in the pending action before the Hearing Panel. Requests for copies of CFP Board documents must be made to CFP Board Counsel in writing. Release of information contained in a Respondent's disciplinary file is premised on the understanding that materials will be used only for purposes directly connected to the pending CFP Board action.

8.2 Documents

Documents submitted by Respondents to the Commission for consideration in resolution of the issues raised during an investigation shall be limited to 100 pages. No evidence may be accepted less than thirty (30) days prior to the scheduled hearing, except by motion at the hearing.

Should a Respondent deem it necessary to exceed the 100 page limit, the Respondent shall be required to submit a written memorandum that outlines clearly and with reasonable particularity how each and every document submitted by the Respondent or on his or her behalf relates to the allegations contained in the CFP Board Complaint. After reviewing such outline, the Commission shall determine which documents will be permitted.

8.3 Witnesses

Witnesses, if any, shall be identified to CFP Board no later than forty-five (45) days prior to the scheduled hearing. When witnesses are identified, the Respondent shall also state the nature and extent of the witnesses' testimony, as well as whether the witnesses will appear in person or via telephone.

8.4 Respondent's Counsel

Respondent's counsel, if any, shall be identified to CFP Board no later than 45 calendar days prior to the scheduled hearing. When Respondent's counsel is identified, the Respondent shall provide the counsel's contact information as well as whether the counsel will appear in person or via telephone.

8.5 Administrative Dismissal

If, upon receipt of a Respondent's Answer to the Complaint, new information becomes available that may warrant a dismissal of the case prior to review by a Hearing Panel, the CFP Board Advisory Council and the Chair of the Commission shall review all relevant materials and make such determination at that time. The Chair of the Commission shall be recused from further proceedings on any matter in which the Chair of the Commission considers an Administrative Dismissal request.

ARTICLE 9: HEARINGS

9.1 Notice

Not less than thirty (30) calendar days before the date set for the hearing of a Complaint, notice of such hearing shall be given as provided in Article 17.2 to the Respondent, or to the Respondent's counsel. The notice shall designate the date and place of the hearing and shall also advise the Respondent that he/she is entitled to be represented by counsel at the hearing, to cross-examine witnesses and to present evidence on his/her behalf.

9.2 Designation of a Hearing Panel

All hearings on Complaints seeking disciplinary action against a Respondent shall be conducted by the Hearing Panel.

9.3 Procedure and Proof

Hearings shall be conducted in conformity with such rules of procedure and evidence as established by the Hearing Panel. It shall not be necessary that rules of procedure and evidence applicable in a court of law are followed in any hearing, but the Hearing Panel may be guided by such rules to the extent it believes it is appropriate. Proof of misconduct shall be established by a preponderance of the evidence. In the course of the proceedings, the Chair

of the Hearing Panel shall have the power to require the administration of affirmations. A complete record shall be made of all testimony taken at hearings before the Hearing Panel.

9.4 Recommendation

CFP Board Counsel or CFP Board Designated Counsel shall present to the Hearing Panel the information and documentation gathered during the investigation and make a recommendation regarding an appropriate sanction.

ARTICLE 10: REPORT, FINDINGS OF FACT AND RECOMMENDATION

10.1 Report of the Hearing Panel

At the conclusion of the hearing, the Hearing Panel shall record its findings of fact and recommendations and submit the findings and recommendations to the Commission for its consideration. In this report, the Hearing Panel shall: (1) determine that the Complaint is not proved or that the facts as established do not warrant the imposition of discipline and recommend the Complaint be dismissed, either as without merit or with caution; or (2) refer the matter to the Commission with the recommendation that discipline by the Commission is appropriate. The recommendation of the Hearing Panel shall state specifically the form of discipline the Hearing Panel deems appropriate. The Hearing Panel may also recommend that the Commission enter other appropriate orders. In making its recommendation, the Hearing Panel may take into consideration the Respondent's prior disciplinary record, if any.

10.2 Power of the Commission

The Commission reserves the authority to review any determination made by the Hearing Panel in the course of a disciplinary proceeding and to enter any order with respect thereto including an order directing that further proceedings be conducted as provided by these *Disciplinary Rules*. The Commission shall review the report of the Hearing Panel and may either approve the report or modify it. The Commission must accept the Hearing Panel's findings of fact, unless, on the basis of its own review of the record, it determines that such findings are clearly erroneous. The Commission may modify the Hearing Panel's recommendation without reviewing the record and must state the reasons for the modification.

ARTICLE 11: APPEALS

All appeals from orders of the Commission shall be submitted to CFP Board's Appeals Committee in accordance with the *Rules and Procedures of the Appeals Committee*. If an order of the Commission is not appealed within thirty (30) calendar days after notice of the order is sent to the Respondent, such order shall become final. All orders of the Commission may be appealed unless otherwise noted in the *Disciplinary Rules*.

ARTICLE 12: CONVICTION OF A CRIME OR PROFESSIONAL DISCIPLINE

12.1 Proof of Conviction or Professional Discipline

Except as otherwise provided in these *Disciplinary Rules*, a certificate from the clerk of any court of criminal jurisdiction indicating that a Respondent has been convicted of a crime in that court or a letter or other writing from a governmental or industry self-regulatory authority to the effect that a Respondent has been the subject of an order of professional discipline (as hereinafter defined) by such authority, shall conclusively establish the existence of such conviction or such professional discipline for purposes of disciplinary proceedings and shall be conclusive proof of the commission of that crime or of the basis for such suspension, by the Respondent.

12.2 Duty to Report Criminal Conviction or Professional Discipline

Every Respondent, upon being convicted of a crime, other than minor traffic offenses, upon being the subject of professional discipline, or upon notification of a change to a matter previously disclosed to CFP Board, shall notify CFP Board in writing of such conviction or discipline within 30 calendar days after the date on which the Respondent is notified of the conviction or discipline.

12.3 Commencement of Disciplinary Proceedings Upon Notice of Conviction or Professional Discipline

Upon receiving notice that a Respondent has been convicted of any crime occurring within the last 10 years, other than minor traffic offenses, or been the subject of professional discipline, CFP Board shall commence an investigation. CFP Board shall obtain the record of conviction or proof of discipline and file a Complaint against the Respondent as provided in Article 7. If the Respondent's criminal conviction or professional discipline is either proved or admitted as provided herein, the Respondent shall have the right to be heard by the Hearing Panel only on matters of rebuttal of any evidence presented by CFP Board Counsel other than proof of the conviction or discipline.

12.4 Definition of a Professional Discipline

A professional discipline as used herein shall include the suspension or bar as a disciplinary measure by any governmental or industry self-regulatory organization of a securities, insurance, accounting, legal, financial planning, or banking license.

ARTICLE 13: SETTLEMENT PROCEDURE

A Respondent or CFP Board Counsel may propose an Offer of Settlement in lieu of a disciplinary hearing pursuant to these *Disciplinary Rules*. Submitting an Offer of Settlement shall stay all proceedings conducted pursuant to these *Disciplinary Rules*.

13.1 Offer of Settlement

Offers of Settlement may be made where the nature of the proceeding, and the interests of the public and CFP Board permit. The Offer of Settlement shall be in writing and must be submitted to CFP Board staff at least 30 days prior to the Respondent's scheduled disciplinary hearing. A Hearing Panel will consider the Offer and take one of the actions described in Articles 13.2 and 13.3. The Hearing Panel will consider only one Offer of Settlement during the course of a disciplinary proceeding. The Offer must be made in conformity with the provisions of this Article and should not be made frivolously or propose an action inconsistent with the seriousness of the violations alleged in the proceedings. CFP Board Counsel may negotiate a proposed Offer of Settlement with the Respondent and endorse the Offer of Settlement to the Hearing Panel. Only the Commission shall have final decision-making authority to accept or reject an Offer of Settlement.

Every Offer of Settlement shall contain and describe in reasonable detail:

- (a) The act or practice which the Respondent is alleged to have engaged in or omitted;
- (b) The principle, rule, regulation or statutory provision which such act, practice or omission to act is alleged to have violated;
- (c) A statement that the Respondent consents to findings of fact and violations consistent with the statements contained in the offer required by paragraphs 13.1(a) and 13.1(b);
- (d) Proposed Commission action to be taken and a statement that the Respondent consents to the proposed Commission action; and
- (e) A waiver of all rights of appeal to CFP Board's Appeals Committee and the courts or to otherwise challenge or contest the validity of the Order issued if the Offer of Settlement is accepted.

13.2 Acceptance of Offer

If an Offer of Settlement is accepted by a Hearing Panel, the decision of the Hearing Panel shall be reviewed by the Commission. The Commission's decision to affirm the decision of the Hearing Panel to accept the Offer of Settlement shall conclude the proceeding as of the date the Offer of Settlement is accepted. If the Offer of Settlement includes a penalty of revocation or suspension, the revocation or suspension shall become effective immediately upon acceptance by the Hearing Panel and affirmation by the Commission.

13.3 Rejection of Offer; Counter Offer

If the Offer of Settlement is rejected by a Hearing Panel, the Offer of Settlement shall be deemed void and the matters raised in the Complaint will be set for hearing at the next meeting of the Commission. The Respondent shall not be prejudiced by the prior Offer of Settlement, and it shall not be given consideration in the determination of the issues involved in the pending or any other proceeding.

If the Hearing Panel deems it appropriate, it may make a Counter Settlement Offer to the Respondent modifying the proposed finding(s) of fact, violation(s) and/or discipline. The Respondent must respond to CFP Board within 20 calendar days from the date of service of the Counter Settlement Offer by either accepting or rejecting it. Respondent's failure to respond within 20 calendar days is considered to be a rejection. If the Counter Settlement Offer is rejected by the Respondent, the Offer of Settlement and Counter Settlement Offer shall be deemed void and the matters raised in the Complaint will be set for hearing at the

next meeting of the Commission. The Respondent shall not be prejudiced by the prior Offer of Settlement or the Counter Settlement Offer, and neither shall be given consideration in the determination of the issues involved in the pending or any other proceeding.

ARTICLE 14: REQUIRED ACTION AFTER REVOCATION OR SUSPENSION

After the entry of an order of revocation or suspension is final, the Respondent shall promptly terminate any use of the marks and in particular shall not use them in any advertising, announcement, letterhead or business card.

ARTICLE 15: REINSTATEMENT AFTER DISCIPLINE

15.1 Reinstatement After Revocation

Revocation shall be permanent, and there shall be no opportunity for reinstatement.

15.2 Reinstatement After Suspension

Unless otherwise provided by the Commission in its order of suspension, a Respondent who has been suspended for a period of one (1) year or less shall be automatically reinstated upon the expiration of the period of suspension, provided the Respondent files with CFP Board within thirty (30) calendar days of the expiration of the period of suspension a request for reinstatement. A Respondent who has been suspended for a period longer than one (1) year must petition the Commission for a reinstatement hearing within six months of the end of his/her suspension, or the Respondent will be permanently barred from using the CFP® certification. Before any reinstatement hearing will be scheduled, the Respondent must meet all administrative requirements for recertification, pay the reinstatement hearing costs and provide evidence, if necessary, that all prior hearing costs have been paid. At the reinstatement hearing, the Respondent must prove by clear and convincing evidence that the Respondent has been rehabilitated, has complied with all applicable disciplinary orders and provisions of these *Disciplinary Rules*, and that the Respondent is fit to use the marks.

15.3 Investigation

Immediately upon receipt of a petition for reinstatement, CFP Board Counsel will initiate an investigation. The petitioner shall cooperate in any such investigation, and CFP Board Counsel or CFP Board Designated Counsel shall provide to the Commission the Respondent's past disciplinary record and any recommendation regarding reinstatement.

15.4 Successive Petitions

If a Respondent is denied reinstatement, he/she must wait two (2) years to again petition for reinstatement. The second petition must be received by CFP Board within six (6)

months of the expiration of the two (2) year period, and failure to submit a second petition within this time period will result in the Respondent's right to use the marks being revoked. If the second petition is denied, the Respondent will be permanently barred from using the marks.

15.5 Reinstatement Fee

Respondents petitioning for reinstatement will be assessed the costs of the reinstatement proceeding.

ARTICLE 16: CONFIDENTIALITY OF PROCEEDINGS

16.1 Confidentiality

Except as otherwise provided in these *Disciplinary Rules*, all proceedings conducted pursuant to these *Disciplinary Rules* shall be confidential and the records of the Commission, Hearing Panel, CFP Board Counsel and CFP Board staff shall remain confidential and shall not be made public.

16.2 Exceptions to Confidentiality

The pendency, subject matter and status of proceedings conducted pursuant to these *Disciplinary Rules* may be disclosed if (1) the proceeding is predicated on criminal conviction or professional suspension as defined herein; or (2) the Respondent has waived confidentiality; or (3) such disclosure is required by legal process of a court of law, governmental agency, or an industry self-regulatory organization having appropriate jurisdiction; (4) CFP Board Counsel provides the information to a governmental agency or industry self-regulatory organization having appropriate jurisdiction; or (5) in proceedings involving a consumer, CFP Board staff contacts the consumer and/or the Respondent's current and/or former employer to request documents relevant to the proceeding.

ARTICLE 17: GENERAL PROVISIONS

17.1 Quorum

A majority of members of the Commission shall be present in order to constitute a quorum of such Commission, and the approval of a majority of the quorum shall be the action of such Commission.

17.2 Notice and Service

Except as may otherwise be provided in these *Disciplinary Rules*, notice shall be in writing and the giving of notice and/or service shall be sufficient when made either personally or by certified mail or overnight mail sent to the last known address of the Respondent according to the records of CFP Board.

17.3 Costs

In all disciplinary cases wherein a hearing is convened, the Commission will assess against the Respondent the costs of the proceedings. In addition, a Respondent who desires an appearance, whether telephonically or in person, or who submits an Offer of Settlement pursuant to Article 13, will be required to submit hearing costs not less than thirty (30) days prior to the date of the scheduled hearing. In the event that the hearing results in a dismissal without merit, the hearing costs shall be refunded to the Respondent. Hearing costs will not be refunded if the hearing results in any action other a dismissal without merit. A Respondent who petitions for reinstatement from a suspension or revocation or who petitions for appeal shall bear the costs of such proceeding.

Financial hardship. In the event a Respondent is unable to pay the required hearing costs due to financial hardship, the Respondent may submit a written statement explaining his or her financial situation and request a deferral, reduction or waiver of the hearing costs. Upon receipt and review of such request, CFP Board Counsel shall have the discretion to defer, reduce or waive the required hearing costs. All written requests for a reduction or waiver of hearing costs due to financial hardship must be submitted at least forty-five (45) days prior to the date of the scheduled hearing.

17.4 Electronic Signature

Some documents that require a handwritten signature may be submitted electronically through CFP Board's closed Web site. Any document received by CFP Board through this process shall constitute conclusive proof that: (1) the Respondent whose name appears on the document submitted such document; and (2) the Respondent intended to be bound by the terms and conditions contained therein. Accordingly, the document shall be as legally binding as any containing a handwritten signature.

17.5 Publication

It is standard procedure to publish the fact of an interim suspension, Public Letter of Admonition, suspension, revocation or permanent bar, together with identification of the CFP® professional in a press release and on CFP Board's website.

ANONYMOUS CASE HISTORIES

Anonymous case histories are available through CFP Board's website. Anonymous case histories are summaries of prior decisions rendered by the Commission. They serve as precedent and may be relied on by the Commission during hearings and deliberations.

Fitness Standards for Candidates and Professionals Eligible for Reinstatement (PERs)

CFP Board established specific character and fitness standards for candidates for CFP® certification to ensure that an individual's prior conduct would not reflect adversely upon the profession or the CFP® certification marks. CFP Board determined that such standards would also provide notice to individuals interested in attaining CFP® certification that certain conduct would bar certification, or require an individual to petition the Disciplinary and Ethics Commission (Commission) for consideration.

Effective January 1, 2011, the Fitness Standards shall apply to Professionals Eligible for Reinstatement (PER), i.e., individuals who are not currently certified but have been certified by CFP Board in the past and are eligible to reinstate their certification without being required to pass the current CFP® Certification Examination.

The following conduct is unacceptable and will always bar an individual from becoming certified:

- Felony conviction for theft, embezzlement or other financially-based crimes.
- Felony conviction for tax fraud or other tax-related crimes.
- Revocation of a financial (e.g. registered securities representative, broker/dealer, insurance, accountant, investment advisor, financial planner) professional license, unless the revocation is administrative in nature, i.e. the result of the individual determining not to renew the license by not paying the required fees.
- Felony conviction for any degree of murder or rape.
- Felony conviction for any other violent crime within the last five years.

The following conduct is presumed to be unacceptable and will bar an individual from becoming certified unless the individual petitions the Commission for consideration and the Commission grants the petition:

- Two or more personal or business bankruptcies.
- Revocation or suspension of a non-financial professional (e.g. real estate, attorney) license, unless the revocation is administrative in nature, i.e. the result of the individual determining not to renew the license by not paying the required fees.
- Suspension of a financial professional (e.g. registered securities representative, broker/dealer, insurance, accountant, investment advisor, financial planner) license, unless the suspension is administrative in nature, i.e. the result of the individual determining not to renew the license by not paying the required fees.
- Felony conviction for non-violent crimes (including perjury) within the last five years.
- Felony conviction for violent crimes other than murder or rape that occurred more than five years ago.

Other matters that may reflect adversely upon the profession or the CFP® certification marks will be reviewed by the Commission under the procedures outlined in CFP Board's *Disciplinary Rules and Procedures*, after the candidate or PER has successfully completed the education, examination and experience requirements for certification. These include, but are not limited to, customer complaints, arbitrations and other civil proceedings, felony convictions for non-violent crimes that occurred more than five years ago, misdemeanor convictions, and employer investigations and terminations. CFP Board requires candidates for CFP® certification and PERs to disclose certain matters on the ethics declaration of the Certification Application.

PETITIONS FOR CONSIDERATION

Individuals who have conduct that either falls under the “Presumptive Bar” list (see above) or may reflect adversely upon the profession or the CFP® certification marks may petition the Commission for consideration and a determination whether their conduct will bar certification.

The process for these reviews is as follows:

1. When CFP Board learns that an individual’s conduct falls within the “Unacceptable” list (see above), CFP Board shall notify the individual that he/she is permanently barred from becoming certified.
2. The individual submits a written petition for consideration to CFP Board’s Professional Standards Department, and signs a form agreeing to CFP Board’s jurisdiction to review the matter.
3. CFP Board reviews the request to confirm that the conduct either falls within the “Presumptive Bar” list, or is conduct that may reflect adversely upon the profession or the CFP® certifications marks. Once confirmed, CFP Board will request all relevant documentation from the individual, and a fee shall be paid by the individual submitting the petition for consideration. Following the Commission’s review of the petition, the Commission shall make one of the following determinations:
 - Grant the petition after determining the conduct does not reflect adversely on the individual’s fitness as either a registrant seeking reinstatement or as a candidate for CFP® certification, or upon the profession or the CFP® certification marks, and CFP® certification shall be issued to the individual.
 - Deny the petition but allow the individual to re-apply for CFP® certification after a period not to exceed five years. The individual shall be required to satisfy the education, examination, experience, and ethics requirements of CFP® certification at the time of re-application.
 - Deny the petition after determining the conduct reflects adversely on the individual’s fitness as a registrant seeking reinstatement or as a candidate for CFP® certification, or upon the profession or the CFP® certification marks, and the CFP® certification shall be permanently barred.

The Commission’s decision regarding a petition for consideration may be appealed to the Appeals Committee of the Board of Directors, in accordance with Article 12 of the *Disciplinary Rules and Procedures*.

Registrants applying for reinstatement following a period of suspension must follow the reinstatement procedures outlined in Article 16 of the *Disciplinary Rules and Procedures*.

Chapter 5 – Disciplinary Rules and Procedures

RECALL**TO REVIEW** Choose the best answer for each of the questions below.

1. What body is charged with the duty of investigating, reviewing, and taking appropriate action with respect to alleged violations of the *Rules of Conduct* and alleged non-compliance with the *Practice Standards*?
 - A. Hearing Panel
 - B. CFP Board Staff
 - C. CFP Board Counsel
 - D. CFP Board's Disciplinary and Ethics Commission

Answer: D. CFP Board's Disciplinary and Ethics Commission, formed pursuant to and governed by the bylaws of CFP Board, is charged with the duty of investigating, reviewing, and taking appropriate action with respect to alleged violations of the *Rules of Conduct* and alleged non-compliance with the *Practice Standards* as promulgated by CFP Board and shall have original jurisdiction over all such disciplinary matters and procedures.

2. Revocation of a CFP® certificant's right to use the marks may be ordered. Revocations are
 - A. permanent
 - B. effective for a period of seven years, at which time reinstatement may be requested
 - C. effective for a period of five years, at which time reinstatement may be requested
 - D. effective for a period of three years, at which time reinstatement may be requested

Answer: A. Revocations are permanent; the former CFP® certificant will not be eligible for reinstatement.