

CFP Board Ethics
enhancing your ethical intelligence
Program ID: 229115

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How Does The Media Treat Us?

- **“Advisor Forged Client’s Signature, Stole \$900k, Says FBI”**
- **“Idaho Advisor AWOL After Fraud Allegations”**
- **“Raymond James Pays \$150M to Settle Ski Resort Lawsuit”**
- **“Advisor Who Stole From Mike Tyson Gets 33 Months”**
- **“Branch Manager Trampled in Deer-Breeding Scheme”**

Ethics

- Not just a set of rules and guidelines
- Refreshes and enhances ethical intelligence
- Keeps us off the ethical “slippery slope”
- Helps us protect:
 - the people we serve
 - the reputation of the designation and other certificants
 - our practices
- Impact of breaches can be widespread!

CFP Board’s Ethics CE Learning Objectives

Learning Objectives:

- Define and discuss a financial planning engagement, material elements of financial planning, and the financial planning process.
- Analyze specific fact patterns to determine if a financial planning relationship exists.
- Differentiate between the standards of care set forth in Rules 1.4 and 4.5 of the *Rules of Conduct*, and apply each standard of care to specific factual situations.
- Apply each *Practice Standard* set forth in the *Financial Planning Practice Standards* to a hypothetical financial planning engagement.
- Identify the information that must be disclosed to the client in writing by a CFP® professional who is engaged in a financial planning relationship or providing material elements of financial planning.
- Define the required information that must be disclosed to clients and prospective clients, when that information must be disclosed, and apply each disclosure requirement to specific factual situations.

***New for 2018!**

Learning Objectives:

- Identify the significant changes in the Standards and how the changes affect CFP® professionals.
- Act in accordance with CFP Board's fiduciary duty.
- Apply the Practice Standards when providing financial planning services.
- Provide all disclosures required by the Standards.
- Recognize, avoid, or fully disclose and manage conflicts of interest.

Rules of Conduct Rule 1.4 and Rule 4.5

- **1.4:** A certificant shall at all times place the interest of the client ahead of his or her own. When the certificant provides financial planning or material elements of financial planning the certificant owes to the client the duty of care of a fiduciary as defined by CFP Board.
- **4.5:** In addition to the requirements of Rule 1.4, a certificant shall make and/or implement only recommendations that are suitable for the client.

Financial Planning Determining Factors

- The client's understanding and intent in engaging the certificant
- The degree to which multiple financial planning subject areas are involved
- The comprehensiveness of data gathering
- The breadth and depth of recommendations

"Material Element" Activity Examples

- Conducting detailed data-gathering regarding multiple aspects of a client's financial situation
- Analyzing a client's data and making recommendations across multiple financial planning subject areas
- Providing investment advisory services as defined by the applicable state or federal regulators

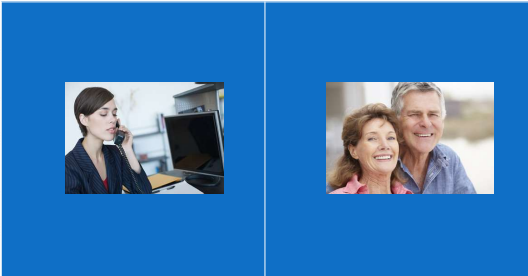
Not Necessarily Financial Planning

- Opening an account or completing an application Fact-finding to meet regulatory requirements for suitability such as the "Know Your Customer" rules
- Solely providing brokerage and/or insurance products or services
- Engaging in activity solely related to the sale of a specific product
- Acting as a mortgage broker without providing any other financial services
- Completing tax returns without providing any other financial services
- Teaching a financial class or continuing education program

Rule 1.4

Anonymous Case History 24706

ACH 24706



ACH 24706

ASSET	OWNERSHIP
\$400,000 Brokerage	Joint
\$700,000	Hank is Owner Wendy is Beneficiary

Discipline Imposed?

- a) Private Censure
- b) Public Letter of Admonition
- c) Suspension
- d) Revocation

ACH 24706 – DEC Findings

Rule Violations: 1.4, 4.1, 4.4

Mitigating Factors:

- Handled relationship appropriately pre-divorce
- No prior disciplinary history
- No monetary damages

Aggravating Factors:

- Failure to document involvement of b/d
- Did not handle conflicts of interest

Rule 4.5

Anonymous Case History 27854

ACH 27854



The slide contains two images side-by-side. The left image is a cartoon illustration of a man in a brown suit and green hat, holding a large white money bag with a dollar sign on it. The right image is a photograph of a person sitting on a thin tightrope high above a city, with a sunset or sunrise in the background.

Discipline Imposed?

- a) Private Censure
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- c) Suspension
- d) Revocation

ACH 24706 – DEC Findings

Rule Violations: 4.1, 4.3, 4.4, 4.5, 5.1, 6.5

Mitigating Factors:

- Cooperated with FINRA and CFP Board
- No regulatory matters since 1988
- Admitted to the conduct; was remorseful
- Intent was to assist rather than financial gain

ACH 24706 – DEC Findings

Aggravating Factors:

- Resulted in a customer complaint
- Extended over an 8 year period
- Appeared to circumvent compliance
- Terminated by employer
- Indicated conduct would continue if not caught

Rule 4.1 ALWAYS Applies:

A certificant shall treat prospective clients and clients fairly and provide professional services with integrity and objectivity.

Financial Planning Agreement

- The parties to the Agreement
- The date of the Agreement and its duration
- How and on what terms each party can terminate the Agreement
- The services to be provided as part of the Agreement

Fiduciary Standard

- **CFP Board's Definition:**
 - *One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client."*
- **To Whom Does it Apply?**
 - *All CFP® professionals who provide financial planning or elements of financial planning will be held to the duty of care of a fiduciary, as defined by the CFP® Board.*
- **Baseline Duty of Care Always Applies:**
 - *CFP® professionals must place the interest of the client ahead of his or her own.*

Compensation Disclosures 2.2(a)

- An accurate and understandable description of the compensation arrangements being offered. This description must include:
 - Information related to costs and compensation to the certificant and/or the certificant's employer, and
 - Terms under which the certificant and/or the certificant's employer may receive any other sources of compensation, and if so, what the sources of these payments are and on what they are based.
- Requires two disclosures: one at the beginning of the engagement; and one at the time recommendations are made.

Costs & Other Compensation Sources

- 12b-1 fees
- Cash bonuses or other incentives received from the firm or issuer for selling specific financial or insurance products
- Trailing commissions for selling financial or insurance products
- Compensation received from wrap-fee program
- Trading fees, if passed on to the client
- Ticket charges, if passed on to the client
- Administrative or management fees on mutual funds or variable annuities as outlined in the prospectus
- Solicitation fees

Conflicts of Interest 2.2(b)

- Certificants are required to provide “a general summary of likely conflicts of interest between the client and the certificant, the certificant’s employer or any affiliates or third parties, including, but not limited to, information about any familial, contractual or agency relationship of the certificant or the certificant’s employer that has a potential to materially affect the relationship”
- May require more than one disclosure:
 - at the beginning of the engagement
 - if new conflicts arise

Other Disclosures 2.2 (c)&(d):

- Any information about the certificant or the certificant’s employer that could reasonably be expected to materially affect the client’s decision to engage the certificant that the client might reasonably want to know in establishing the scope and nature of the relationship, including but not limited to information about the certificant’s areas of expertise.
- Contact information for the certificant and, if applicable, the certificant’s employer.

When Must These Be in Writing?

Rule 2.2 (e)

If the services include financial planning or material elements of financial planning, these disclosures must be in writing. The written disclosures may consist of multiple written documents. Written disclosures used by a certificant or certificant's employer that includes the items listed above, and are used in compliance with state or federal laws, or the rules or requirements of any applicable self-regulatory organization, such as the Securities and Exchange Commission's Form ADV or other disclosure documents, shall satisfy the requirements of this Rule.

Hypothetical Engagement

Learning Objective:

“Apply each Practice Standard set forth in the Financial Planning Practice Standards to a hypothetical financial planning engagement.”

Hypothetical Engagement



Not Necessarily Financial Planning

- Opening an account or completing an application Fact-finding to meet regulatory requirements for suitability such as the "Know Your Customer" rules
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"Material Element" Activity Examples

- Conducting detailed data-gathering regarding multiple aspects of a client's financial situation
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Financial Planning Process

Step 1	Practice Standard
<i>Establishing and defining the relationship with a client</i>	<i>100-1 Defining the Scope of the Engagement</i>

Financial Planning Process

Step 2	Practice Standard
<i>Gathering client data</i>	<i>200-1 Determining a Client's Personal and Financial Goals, Needs and Priorities</i>
	Practice Standard
	<i>200-2 Obtaining Quantitative Information and Documents</i>

Financial Planning Process

Step 3	Practice Standard
<i>Analyzing and evaluating the client's financial status</i>	<i>300-1 Analyzing and Evaluating the Client's Information</i>

Financial Planning Process

Step 4	Practice Standard
<i>Developing and presenting financial planning recommendation(s)</i>	<ul style="list-style-type: none">• 400-1 Identifying and Evaluating Financial Planning Alternatives(s)• 400-2 Developing the Financial Planning Recommendation(s)• 400-3 Presenting the Financial Planning Recommendation(s)

Financial Planning Process

Step 5	Practice Standard
<i>Implementing the financial planning recommendations</i>	<ul style="list-style-type: none">• 500-1 Agreeing on Implementation Responsibilities• 500-2 Selecting Products and Services for Implementation

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- May requires two disclosures:
 - at the beginning of the engagement
 - a second if a new conflict arises

Financial Planning Process

Step 6	Practice Standard
Monitoring	<ul style="list-style-type: none"> • 600-1 Defining Monitoring Responsibilities

Fictitious Case Scenario-Mr. Bigbritches

- Accepted client checks made payable to his asset management firm
- Convinced clients to “cash out” existing brokerage accounts to open “accounts” at his asset management firm
- Sold “immediate annuities” to clients which were paid out of his asset management firm’s account
- Confessed to running a Ponzi Scheme when he could not fund a large client’s cash need

Ripple Effect
“the repercussions of an event or situation experienced far beyond its immediate location” –Collins English Dictionary

- Approximately 130 Clients
- Just About 100 Employees
- Thousands of Firm Clients
- Immediate Family
- Vendors
- Families, Financial Plans , Large Purchases, etc.

➤ **Regional Economic Crisis**

Rule 606 = Current Applicable Rules:

- 4.3 Regulatory requirement compliance
- 6.1 Compliance with all CFP Board terms
- 6.2 Current with all CFP Board requirements

Rule 607 = Current Applicable Rules:

- 6.5 Conduct which reflects adversely on the profession

“Material Elements” of Financial Planning

- Conducting detailed data-gathering regarding multiple aspects of a client's financial situation
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Mr. Bigbritches 2.2 (a) Violations

- No disclosure of compensation or conflicts of interest

More than One Disclosure Required:

- At the beginning of the engagement providing a description of how the client would pay for all services and any potential conflicts
- At the time the CFP® professional makes specific recommendations – for compensation
- When additional conflicts of interest arise

Other Violations:

- 3.6 Borrowing money from a client
- 3.8 Commingling client property with that of the certificant
- 3.9 Commingling client property with other clients' property
- 4.1 Delivering services with integrity and objectivity
- 4.2 Offering advice only in areas in which he is competent
- 4.4 Exercising prudent judgment
- 4.5 Implementing recommendations that are suitable

Code of Ethics Principles

1. Integrity
2. Objectivity
3. Competence
4. Fairness
5. Confidentiality
6. Professionalism
7. Diligence

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Importance of the Code of Ethics Requirement

- Enhances our Ethical Intelligence
- Helps us protect:
 - The people we serve
 - The reputation of the designation and other certificant – 6.5
 - Our own practices and ourselves

Resources: cfp.net

Under: Professional Standards and Enforcement

- Code of Ethics and Professional Responsibility
- Rules of Conduct
- Financial Planning Practice Standards
- Disciplinary Rules and Procedures
- Fitness Standards for Candidates and Professionals Eligible for Reinstatement
- Appeal Rules and Procedures

