

CERTIFIED FINANCIAL PLANNER
BOARD OF STANDARDS, INC.

DISCIPLINARY RULES AND PROCEDURES



CERTIFIED FINANCIAL PLANNER™



The certification marks above are owned by Certified Financial Planner Board of Standards Inc. and are awarded to individuals who successfully complete CFP Board's initial and ongoing certification requirements.

Terminology in this Booklet

“Client” denotes a person, persons, or entity who engages a practitioner and for whom professional services are rendered. For purposes of this definition, a practitioner is engaged when an individual, based upon the relevant facts and circumstances, reasonably relies upon information or service provided by that practitioner. Where the services of the practitioner are provided to an entity (corporation, trust, partnership, estate, etc.), the client is the entity acting through its legally authorized representative.

“CFP Board designee” denotes current certificants, candidates for certification, and individuals that have any entitlement, direct or indirect, to the CFP certification marks.

“Commission” denotes the compensation received by an agent or broker when the same is calculated as a percentage on the amount of his or her sales or purchase transactions.

“Compensation” is any economic benefit a CFP Board designee or related party receives from performing his or her professional activities.

“Conflict(s) of interest” exists when a CFP Board designee’s financial, business, property and/or personal interests, relationships or circumstances reasonably may impair his/her ability to offer objective advice, recommendations or services.

“Fee-only” denotes a method of compensation in which compensation is received solely from a client with neither the personal financial planning practitioner nor any related party receiving compensation which is contingent upon the purchase or sale of any financial product. A “related party” for this purpose shall mean an individual or entity from whom any direct or indirect economic benefit is derived by the personal financial planning practitioner as a result of implementing a recommendation made by the personal financial planning practitioner.

A **“financial planning engagement”** exists when a client, based on the relevant facts and circumstances, reasonably relies upon information or services provided by a CFP Board designee using the financial planning process.

“Personal financial planning” or **“financial planning”** denotes the process of determining whether and how an individual can meet life goals through the proper management of financial resources.

“Personal financial planning process” or **“financial planning process”** denotes the process which typically includes, but is not limited to, these six elements: establishing and defining the client-planner relationship, gathering client data including goals, analyzing and evaluating the client’s financial status, developing and presenting financial planning recommendations and/or alternatives, implementing the financial planning recommendations and monitoring the financial planning recommendations.

“Personal financial planning subject areas” or **“financial planning subject areas”** denotes the basic subject fields covered in the financial planning process which typically include, but are not limited to, financial statement preparation and analysis (including cash flow analysis/planning and budgeting), investment planning (including portfolio design, i.e., asset allocation and portfolio management), income tax planning, education planning, risk management, retirement planning and estate planning.

“Personal financial planning professional” or **“financial planning professional”** denotes a person who is capable and qualified to offer objective, integrated and comprehensive financial advice to or for the benefit of individuals to help them achieve their financial objectives. A financial planning professional must have the ability to provide financial planning services to clients, using the financial planning process covering the basic financial planning subjects.

“Personal financial planning practitioner” or **“financial planning practitioner”** denotes a person who is capable and qualified to offer objective, integrated and comprehensive financial advice to or for the benefit of clients to help them achieve their financial objectives and who engages in financial planning using the financial planning process in working with clients.


Disciplinary Rules and Procedures

ARTICLE 1: Introduction	5
ARTICLE 2: Board of Professional Review	5
2.1 Function and Jurisdiction of the Board of Professional Review.....	5
2.2 Powers and Duties of the Board	5
2.3 Hearing Panel.....	5
2.4 Disqualification	5
2.5 Staff Counsel	6
ARTICLE 3: Grounds for Discipline	6
ARTICLE 4: Forms of Discipline	6
4.1 Private Censure	7
4.2 Public Letter of Admonition.....	7
4.3 Suspension	7
4.4 Revocation	7
4.5 Forms of Discipline Concerning Candidates.....	7
ARTICLE 5: Interim Suspension Status	8
5.1 Issuance of a Show Cause Order	8
5.2 Service	8
5.3 Response	8
5.4 Failure to Respond to the Order to Show Cause	8
5.5 Show Cause Hearing.....	8
5.6 Interim Suspension	8
5.7 Automatic Reinstatement Upon Reversal of Conviction or Suspension.....	9
5.8 Publication.....	9
ARTICLE 6: Investigation	9
6.1 Commencement.....	9
6.2 Procedures for Investigation.....	9
6.3 Probable Cause Determination Procedures	9
6.4 Disposition	10
ARTICLE 7: Complaint - Answer - Default	10
7.1 Complaint	10
7.2 Service of the Complaint.....	10
7.3 Answer	10
7.4 Default and Orders of Revocation and Denial.....	10
7.5 Request for Appearance	10
ARTICLE 8: Discovery and Evidence	10
8.1 Discovery	10
8.2 Documents.....	11
8.3 Witnesses	11
8.4 Administrative Dismissal	11
ARTICLE 9: Hearings	11
9.1 Notice	11
9.2 Designation of a Hearing Panel	11
9.3 Procedure and Proof	11

ARTICLE 10: Report, Findings of Fact and Recommendation	12
10.1 Hearing Panel.....	12
10.2 Report of the Hearing Panel.....	12
10.3 Power of the Board.....	12
ARTICLE 11: Appeals	12
ARTICLE 12: Conviction of a Crime or Professional Suspension	12
12.1 Proof of Conviction or Professional Suspension	12
12.2 Duty to Report Criminal Conviction or Professional Suspension	13
12.3 Commencement of Disciplinary Proceedings Upon Notice of Conviction or Professional Suspension	13
12.4 Conviction of Serious Crime or Professional Suspension - Immediate Suspension.....	13
12.5 Serious Crime Defined	13
12.6 Definition of a Professional Suspension	13
ARTICLE 13: Settlement Procedure	13
13.1 Offer of Settlement.....	13
13.2 Acceptance of Offer	14
13.3 Rejection of Offer.....	14
13.4 Publication.....	14
ARTICLE 14: Required Action After Revocation or Suspension	14
ARTICLE 15: Reinstatement After Discipline	15
15.1 Reinstatement After Revocation	15
15.2 Reinstatement After Suspension	15
15.3 Investigation.....	15
15.4 Successive Petitions.....	15
15.5 Reinstatement Fee.....	15
ARTICLE 16: Confidentiality of Proceedings	15
16.1 Confidentiality	15
16.2 Exceptions to Confidentiality	15
ARTICLE 17: General Provisions	17
17.1 Quorum	17
17.2 Notice and Service	17
17.3 Costs	17
17.4 Electronic Signature	17
Anonymous Case Histories	17

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)* and *Financial Planning Practice Standards (Practice Standards)* which establish the expected level of professional conduct and practice for CFP Board designees. The *Code of Ethics* and *Practice Standards* may be amended from time to time, with revisions submitted to the public for comment before final adoption by CFP Board. 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 Board designees, CFP Board has the ability to enforce the provisions of the *Code of Ethics* and *Practice Standards*. Adherence to the *Code of Ethics* by CFP Board designees or to *Practice Standards* by CFP® practitioners 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 and procedures set forth below when enforcing the *Code of Ethics* and *Practice Standards*.

ARTICLE 2: BOARD OF PROFESSIONAL REVIEW

2.1 Function and Jurisdiction of the Board of Professional Review

CFP Board's Board of Professional Review (referred to herein as the "Board"), 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 *Code of Ethics* and alleged non-compliance with the *Practice Standards* as promulgated by CFP Board's Board of Governors and shall have original jurisdiction over all such disciplinary matters and procedures.

2.2 Powers and Duties of the Board

The Board shall be authorized and empowered to:

- (a) Enlist the assistance of CFP certificants to assist with investigations, or serve temporarily on a Hearing Panel;
- (b) Periodically report to CFP Board's Board of Governors on the operation of the Board;
- (c) Adopt amendments to these *Disciplinary Rules and Procedures*, subject to review and approval of CFP Board's Board of Governors; and
- (d) Adopt such other rules or procedures as may be necessary or appropriate to govern the internal operations of the Board.

2.3 Hearing Panel

The Hearing Panel may consist of members of the Board who have been designated Hearing Panel members, enlisted CFP certificants and up to one individual who is not a CFP certificant. A Panel shall consist of at least three persons. At least one member of every Hearing Panel shall be a member of the Board and at least two members of every Hearing Panel shall be CFP certificants. 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 voting member of the Board of Professional Review.

2.4 Disqualification

Board 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.

2.5 Staff Counsel

CFP Board Staff Counsel may be either full- or part-time employees of CFP Board or may be non-employees who are attorneys. It will be the duty of CFP Board and CFP Board Staff Counsel to maintain an office in the Denver metropolitan area (or such other location as approved by CFP Board's Board of Governors) to serve as a central office for the filing of requests for the investigation of CFP Board designee conduct, for the coordination of such investigations, for the administration of all disciplinary enforcement proceedings carried out pursuant to these *Procedures*, for the prosecution of charges of wrongdoing against CFP Board designees pursuant to these *Procedures* and for the performance of such other duties as are designated by the Board or the Chief Executive Officer of CFP Board. CFP Board Staff Counsel shall be under the day-to-day supervision of the Chief Executive Officer of CFP Board, but shall have ultimate responsibility to the Board.

ARTICLE 3: GROUNDS FOR DISCIPLINE

Misconduct by a CFP Board designee, 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 *Code of Ethics*;
- (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 *Procedures* or which violates an order of discipline;
- (f) Failure to respond to a request by the Board, without good cause shown, or obstruction of the Board, or any panel or board thereof, or CFP Board staff in the performance of its or their duties. Good cause includes, without limitation, an assertion that a response would violate a CFP Board designee's constitutional privilege against self-incrimination;
- (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 Board may dismiss the matter as either without merit or with a cautionary letter. In all cases, the Board has the right to require CFP Board designees 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 in these cases where grounds for discipline have been established.

4.1 Private Censure

The Board may order private censure of a CFP Board designee which shall be an unpublished written reproach mailed by the Board to a censured CFP Board designee.

4.2 Public Letter of Admonition

The Board may order that a Letter of Admonition be issued against a CFP Board designee, which shall be a publishable written reproach of the CFP Board designee'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 Board. In some cases when the Board determines that there are mitigating circumstances, it may decide to withhold public notification.

4.3 Suspension

The Board 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 CFP Board designee in a press release, or in such other form of publicity as is selected by the Board. In some cases when the Board determines that there are extreme mitigating circumstances it may decide to withhold public notification. CFP Board designees receiving a suspension may qualify for reinstatement to use the marks as provided in Article 15.

4.4 Revocation

The Board may order permanent revocation of a CFP Board designee'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 CFP Board designee in a press release, or in such other form of publicity as is selected by the Board. In some cases when the Board determines that there are extreme mitigating circumstances it may decide to withhold public notification. Revocation shall be permanent.

4.5 Forms of Discipline Concerning Candidates

Under certain circumstances, the Board may take action in matters involving the conduct of candidates for CFP® certification. Action that may be taken in these cases, where grounds have been established, correspond in character and degree to the four forms of discipline described in Articles 4.1 through 4.4 above, and are correspondingly as follows:

- (a) Subject to the candidate's meeting all other requirements of certification, certification, if any, of the candidate with a private censure in the candidate's record in the form stated;
- (b) Subject to the candidate's meeting all other requirements of certification, certification, if any, of the candidate with issuance of a Letter of Admonition, published as applicable, and in the candidate's record in the form stated;
- (c) Certification, if any, suspended for a specified period, not to exceed five (5) years;
- (d) Certification, if any, denied.

In the event of either a suspension or a denial of certification, the fact of such suspension or denial shall be publishable at the discretion of the Board. A candidate for the CFP certification who has been the subject of an order to suspend certification may seek to reapply for certification according to the same procedures in Article 15.2. Such candidates, in addition, shall meet the requirements of original certification.

ARTICLE 5: INTERIM SUSPENSION STATUS

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

5.1 Issuance of a Show Cause Order

Although a CFP Board designee's right to use the marks shall not ordinarily be suspended during the pendency of such proceedings, when it appears that a CFP Board designee has been convicted of a serious crime as defined in Article 12.5, or has been the subject of a professional suspension as defined in Article 12.6, or has converted property or funds, has engaged in conduct which poses an immediate threat to the public, or has engaged in conduct the gravity of which impinges upon the stature and reputation of the marks, CFP Board Staff Counsel may issue an Order to Show Cause why the CFP Board designee'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 Board designee either by personal service or by certified mail, return receipt requested, mailed to the last known address of the CFP Board designee, 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 Board designee. The CFP Board designee 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 Board designee fails to file a Response within the period provided in Article 5.3, that CFP Board designee 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

Upon receiving the CFP Board designee's Response as provided in Article 5.3, a hearing shall be scheduled before no less than a quorum of the Board. If so requested, the CFP Board designee shall have the opportunity to participate at such hearing presenting arguments and evidence on his/her behalf. All evidence presented must be submitted to the CFP Board staff not less than twenty (20) days prior to the scheduled hearing. Any evidence not so submitted may only be admitted by motion at the hearing.

5.6 Interim Suspension

An interim suspension will be issued when the Board determines that the CFP Board designee has failed to provide evidence which establishes, by a preponderance of the evidence, that the CFP Board designee does not pose an immediate threat to the public and that the gravity of the nature of the CFP Board designee's conduct does not impinge upon the stature and reputation of the marks. The fact that a convicted or suspended CFP Board

designee is seeking appellate review of the conviction or suspension shall not limit the power of the Board to impose an interim suspension.

5.7 Automatic Reinstatement Upon Reversal of Conviction or Suspension

A CFP Board designee subject to a suspension under this Article shall have the suspension vacated immediately upon filing with the Board a certificate demonstrating that the underlying criminal conviction or professional suspension 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 Board designee.

5.8 Publication

It shall be standard procedure to publish the fact of an interim suspension together with identification of the CFP Board designee in a press release.

ARTICLE 6: INVESTIGATION

6.1 Commencement

Proceedings involving potential ethics violations shall be commenced upon a written request for investigation made by any person which shall be directed to the Board or commenced at the behest of CFP Board Staff Counsel. Proceedings involving *Practice Standards* nonconformance shall be commenced upon a written request for investigation made by any person(s) who have a contractual relationship with the CFP Board designee whose practices are being called into question or by a CFP® certificant, or at the behest of CFP Board Staff Counsel. In either situation, the Board may, in making a determination of whether to proceed, make such inquiry regarding the underlying facts as they deem appropriate.

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 *Code of Ethics*, or upon the acquisition by CFP Board Staff Counsel of information which, if true, could give rise to a violation of the *Code of Ethics*, the CFP Board designee in question shall be given written notice by CFP Board Staff Counsel that the CFP Board designee is under investigation and of the general nature of the allegations asserted against the CFP Board designee. The CFP Board designee shall have thirty (30) calendar days from the date of notice of the investigation to file a written response to the allegations with the Board.

- (a) *No Response*. At the expiration of the thirty (30) calendar-day period if no response has been received, the matter shall be referred to a Hearing Panel.
- (b) *Response*. Upon receipt of a response, CFP Board Staff 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 Staff Counsel shall determine if there is probable cause to believe grounds for discipline exists and shall either; (1) dismiss the allegations as being without merit; (2) dismiss the allegations with a letter of caution recommending remedial action and entering other appropriate orders; or (3) begin preparation and processing of a Complaint against the CFP Board designee in accordance with Article 7.

6.4 Disposition

CFP Board Staff 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 staff and forwarded to the CFP Board designee. 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 CFP Board designee is charged and the conduct or omission which gave rise to those charges.

7.2 Service of the Complaint

CFP Board staff shall promptly serve the Complaint upon the CFP Board designee either by personal service or by certified mail, return receipt requested, mailed to the last known address of the CFP Board designee 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 upon the CFP Board designee. The CFP Board designee shall file an original and the number of copies specified in the Complaint of such Answer with CFP Board. Copies of the Answer shall be included with the materials provided to the Hearing Panel in advance of the hearing. In the Answer, the CFP Board designee shall respond to every material allegation contained in the Complaint. In addition, the CFP Board designee shall set forth in the Answer any defenses or mitigating circumstances.

7.4 Default and Orders of Revocation and Denial

If the CFP Board designee fails to file an Answer within the period provided by Article 7.4, such CFP Board designee shall be deemed to be in default, and the allegations set forth in the Complaint shall be deemed admitted. In such circumstance, CFP Board Staff Counsel shall serve upon the CFP Board designee, consistent with Article 7.3, an Order of Revocation or, in cases involving a candidate for certification, an Order of Denial. Such orders shall state clearly and with reasonable particularity the grounds for the revocation or denial of the CFP Board designee's right to use the marks. These Orders are subject to the CFP Board designee's right of appeal as outlined in Article 11.

7.5 Request for Appearance

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

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 CFP Board designee. The CFP Board designee may obtain copies of all documents in the CFP Board designee'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 Staff Counsel in writing. Release of information contained in a CFP Board designee'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 CFP Board designees to the Board 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 CFP Board designee deem it necessary to exceed the 100 page limit, the CFP Board designee shall be required to submit a written memorandum that outlines clearly and with reasonable particularity how each and every document submitted by the CFP Board designee or on his or her behalf relates to the allegations contained in the CFP Board Complaint. After reviewing such outline, the Board shall determine which documents will be permitted.

8.3 Witnesses

Witnesses, if any, shall be identified to the Board no later than thirty (30) days prior to the scheduled hearing. When witnesses are identified, the CFP Board designee shall also state the nature and extent of the witnesses' testimony.

8.4 Administrative Dismissal

If, upon receipt of a CFP Board designee'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 Director of the professional review department and the Chair of the Board of Professional Review shall review all relevant materials and make such determination at that time.

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 CFP Board designee or to the CFP Board designee's counsel. The notice shall designate the date and place of the hearing and shall also advise the CFP Board designee that the CFP Board designee is entitled to be represented by counsel at the hearing, to cross-examine witnesses and to present evidence on behalf of the CFP Board designee.

9.2 Designation of a Hearing Panel

All hearings on Complaints seeking disciplinary action against a CFP Board designee 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. A CFP Board designee may not be

required to testify or to produce records over the objection of the CFP Board designee if to do so would be in violation of the CFP Board designee's constitutional privilege against self-incrimination in a court of law. In the course of the proceedings, the Chair of the Hearing Panel shall have the power to require the administration of oath and affirmations. A complete record shall be made of all testimony taken at hearings before the Hearing Panel.

ARTICLE 10: REPORT, FINDINGS OF FACT AND RECOMMENDATION

10.1 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 Board for its consideration. In making its recommendation, the Hearing Panel may take into consideration the CFP Board designee's prior disciplinary record, if any.

10.2 Report of the Hearing Panel

The Hearing Panel shall report its findings and recommendations to the Board. 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 Board with the recommendation that discipline by the Board 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 Board enter other appropriate orders.

10.3 Power of the Board

The Board reserves the authority to review any determination made by the Hearing Panel in the course of a disciplinary or *Practice Standards* proceeding and to enter any order with respect thereto including an order directing that further proceedings be conducted as provided by these *Procedures*. The Board shall review the report of the Hearing Panel and may either approve the report or modify it. The Board 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 Board 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 Board shall be submitted to CFP Board's Board of Appeals in accordance with the Rules and Procedures of the Board of Appeals. If an order of the Board is not appealed within thirty (30) calendar days after notice of the order is sent to the CFP Board designee, such order shall become final.

ARTICLE 12: CONVICTION OF A CRIME OR PROFESSIONAL SUSPENSION

12.1 Proof of Conviction or Professional Suspension

Except as otherwise provided in these *Procedures*, a certificate from the clerk of any court of criminal jurisdiction indicating that a CFP Board designee 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 CFP Board designee has been the subject of an order of professional suspension (as hereinafter defined) by such authority, shall conclusively establish the existence of such conviction or such professional suspension 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 CFP Board designee.

12.2 Duty to Report Criminal Conviction or Professional Suspension

Every CFP Board designee, upon being convicted of a crime, except misdemeanor traffic offenses or traffic ordinance violations unless such offense involves the use of alcohol or drugs, or upon being the subject of professional suspension, shall notify CFP Board in writing of such conviction or suspension within ten (10) calendar days after the date on which the CFP Board designee is notified of the conviction or suspension.

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

Upon receiving notice that a CFP Board designee has been convicted of a crime other than a serious crime (as defined herein), CFP Board Staff Counsel shall commence an investigation. If the conviction is for a serious crime or if a CFP Board designee is the subject of a professional suspension, CFP Board shall obtain the record of conviction or proof of suspension and file a Complaint against the CFP Board designee as provided in Article 7. If the CFP Board designee's criminal conviction or professional suspension is either proved or admitted as provided herein, the CFP Board designee shall have the right to be heard by the Hearing Panel only on matters of rebuttal of any evidence presented by Staff Counsel other than proof of the conviction or suspension.

12.4 Conviction of Serious Crime or Professional Suspension - Immediate Suspension

Upon receiving notification of a CFP Board designee's criminal conviction or professional suspension, CFP Board Staff Counsel may, at its discretion, issue a notice to the convicted or suspended CFP Board designee directing that the CFP Board designee show cause why the CFP Board designee's right to use the marks should not be immediately suspended pursuant to Article 5.

12.5 Serious Crime Defined

The term serious crime as used in these rules shall include: (1) any felony; (2) any lesser crime, a necessary element of which as determined by its statutory or common law definition involves misrepresentation, fraud, extortion, misappropriation or theft; and/or (3) an attempt or conspiracy to commit such crime, or solicitation of another to commit such crime.

12.6 Definition of a Professional Suspension

A professional suspension as used herein shall include the suspension or bar as a disciplinary measure by any governmental or industry self-regulatory authority of a license as a registered securities representative, broker/dealer, insurance or real estate salesperson or broker, insurance broker, attorney, accountant, investment adviser or financial planner.

ARTICLE 13: SETTLEMENT PROCEDURE

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

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 CFP Board designee'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 Staff Counsel may negotiate a proposed Offer of Settlement with the CFP Board designee and endorse the Offer of Settlement to the Hearing Panel. Only the Board 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 member or person associated with a member 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 been violated;
- (c) A statement that the CFP Board designee 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 Board action to be taken and a statement that the CFP Board designee consents to the proposed Board action; and
- (e) A waiver of all rights of appeal to CFP Board's Board of Appeals 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 Board. The Board'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 affirmance by the Board.

13.3 Rejection of 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 Board. The CFP Board designee 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.

13.4 Publication

In the event proceedings pursuant to Article 13 result in a permanent revocation, or suspension, or otherwise result in a termination of the right to use the marks, it shall be standard procedure to publish such fact together with identification of the CFP Board designee in a press release, or in such other form of publicity as is selected by the Board.

ARTICLE 14: REQUIRED ACTION AFTER REVOCATION OR SUSPENSION

After the entry of an order of revocation or suspension is final, the CFP Board designee 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 Board in its order of suspension, a CFP Board designee 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 CFP Board designee files with CFP Board within thirty (30) calendar days of the expiration of the period of suspension an affidavit stating that the suspended CFP Board designee has fully complied with the order of suspension and with all applicable provisions of these *Procedures*, unless such condition is waived by the Board in its discretion. A CFP Board designee who has been suspended for a period longer than one (1) year must petition the Board for a reinstatement hearing within six months of the end of his/her suspension, or failure to do so will result in administrative relinquishment. Before any reinstatement hearing will be scheduled, the CFP Board designee 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 CFP Board designee must prove by clear and convincing evidence that the CFP Board designee has been rehabilitated, has complied with all applicable disciplinary orders and provisions of these *Procedures*, and that the CFP Board designee is fit to use the marks.

15.3 Investigation

Immediately upon receipt of a petition for reinstatement, CFP Board Staff Counsel will initiate an investigation. The petitioner shall cooperate in any such investigation, and CFP Board Staff Counsel shall submit a report of the investigation to the Board which shall report on the petitioner's past disciplinary record and any recommendation regarding reinstatement.

15.4 Successive Petitions

If an individual is denied reinstatement, he/she must wait two (2) years to again petition for reinstatement; if this second petition is denied, the individual's right to use the marks shall be administratively relinquished.

15.5 Reinstatement Fee

Petitioners 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 *Procedures*, all proceedings conducted pursuant to these *Procedures* shall be confidential and the records of the Board, Hearing Panel, CFP Board Staff 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 *Procedures* may be disclosed if (1) the proceeding is predicated on criminal conviction or professional suspension as defined herein; or (2) the CFP Board designee has waived

confidentiality; or (3) such disclosure is required by legal process of a court of law or other governmental body or agency having appropriate jurisdiction; or (4) in proceedings involving a consumer, CFP Board staff contacts the consumer and/or the CFP Board designee'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 Board shall be present in order to constitute a quorum of such Board, and the approval of a majority of the quorum shall be the action of such Board.

17.2 Notice and Service

Except as may otherwise be provided in these *Procedures*, 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 CFP Board designee according to the records of CFP Board.

17.3 Costs

In all disciplinary cases wherein a hearing is convened, the Board will assess against the CFP Board designee the costs of the proceedings. In addition, a CFP Board designee who desires an appearance, either 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 Board shall have the discretion to refund the CFP Board designee's hearing fee; a CFP Board designee may specifically request that the Board consider refunding the hearing fee but such request must be made to the Hearing Panel in the CFP Board designee's Answer or at the hearing. A CFP Board designee 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 CFP Board designee is unable to pay the required hearing costs due to financial hardship, the CFP Board designee 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, Staff 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 CFP Board designee whose name appears on the document submitted such document; and (2) the CFP Board designee 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.

ANONYMOUS CASE HISTORIES

Anonymous case histories are available upon request to CFP Board.

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CERTIFIED FINANCIAL PLANNER

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