

THE DISCIPLINARY AND ETHICS COMMISSION

In the Matter of



Michael J. MacLean, CFP®

Respondent.

CFP Board Case No. 2021-62266

February 13, 2026

ORDER

Certified Financial Planner Board of Standards, Inc. (“CFP Board”) granted Respondent the right to use the CFP®, CERTIFIED FINANCIAL PLANNER®,  and  certification marks (“CFP marks”) on February 11, 2011, and he has been certified since that date. (DEC Book at 13.)

I. PROCEDURAL HISTORY

On March 13, 2025, Enforcement Counsel filed a Complaint with CFP Board’s Disciplinary and Ethics Commission (“Commission”) alleging grounds to sanction Respondent for violations of Standards A.8.a, E.3.j, and E.2 of the *Code of Ethics and Standards of Conduct* (“*Code and Standards*”). (*Id.* at 8-10.) The Complaint cites Respondent’s termination by his previous employer and regulatory actions taken against him regarding his coding of client trades in a way that allocated to Respondent a greater share of commission revenue than he was contractually entitled to. (*Id.* at 6-8.)

Respondent filed an Answer to the Complaint on May 5, 2025, admitting certain allegations, denying others, and explaining the circumstances that led to the termination and regulatory actions. (*Id.* at 69-74.)

On October 23, 2025, a hearing panel formed under Article 10.6 of the *Procedural Rules* convened in person to hear testimony, and to review and consider documents, information, and argument relevant to the Complaint. (Transcript of Hearing of Michael MacLean, CFP®, October 23, 2025 (“Tr.”) at 1.) Enforcement Counsel appeared by video conference for CFP Board; DEC Counsel appeared for the Commission and for the hearing panel; Respondent appeared by videoconference and was represented by counsel. At the outset of the hearing, Respondent’s counsel offered certain publicly available documents that were admitted into evidence over Enforcement Counsel’s objection as relevant solely to the issue of an appropriate sanction. (Tr. at 10-15; Supplemental DEC Book *passim.*)

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II. FINDINGS OF FACT

A. Background

Respondent has passed the (a) Series 66 – Uniform Combined State Law Examination (2008); (b) Series 7 – General Securities Representative Examination (2008); and (c) SIE – Securities Industry Essentials Examination (2018). (*Id.* at 21.)

Respondent has been working for his current registered investment advisor firm since April 2021. (DEC Book at 23.)

B. The Applicable Commission Sharing Agreement

From June 2009 to January 2021, Respondent worked for a large financial services firm as an advisor. (DEC Book at 57.) The firm had a program by which advisors retiring from the firm would transition client accounts to an active advisor at the firm, and the two advisors would share commissions under an agreement between the active advisor and the firm. (*Id.* at 58.) Transactions were to be coded with a joint production number shared by the active and retired advisors. The firm's system prepopulated the joint production number on trade tickets for accounts covered by the agreement. (*Id.*) Respondent, his group leader, and a retiring advisor participated in the firm's program beginning in 2016.

Respondent's firm first questioned Respondent's handling of the retired advisor's accounts in the summer of 2020, after a regulatory issue (unrelated to Respondent or his branch) caused the firm to review all compensation agreements between active and retired advisors. (DEC Book at 54,71-72.) Respondent's firm terminated Respondent on January 4, 2021. The Form U-5 the firm filed states that the termination was "due to concerns that Respondent submitted transactions under, and moved assets to, production numbers that were inconsistent with an agreement with a retired agent that resulted in a shortfall of revenue credited to the retired agent." (DEC Book at 57.)

Respondent states that he did not report his termination to CFP Board because of an administrative oversight during the period of personal and professional upheaval that followed the termination. (*Id.* at 54.)

D. Regulatory Actions

The Financial Industry Regulatory Authority, Inc. ("FINRA") opened an investigation into Respondent's conduct, and on November 9, 2023, entered into a Letter of Acceptance Waiver and Consent ("AWC") with him. (*Id.* at 57-60.) In the AWC, Respondent accepted and consented to the following findings, without admitting or denying them:

In June 2016, [Respondent] entered into an agreement through which he and another representative working from the same branch office agreed to service certain customer accounts, including executing trades for those accounts, under a

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joint representative code (also known as joint production number) that they shared with a retired representative. The agreement set forth what percentages of the commissions [Respondent], the other representative, and the retired representative earned on trades placed using the joint representative code. From October 2016 through April 2020, [Respondent] placed 366 trades in accounts that were covered by the agreement using a representative code other than the one he should have used. Specifically, although the firm's system prepopulated the trades with the applicable joint representative code, [Respondent] changed the code for the 366 trades to a different representative code that he shared only with the other representative. [Respondent] changed the codes because he mistakenly believed that his agreement with the retired representative did not apply to new assets added to accounts subject to the agreement. The firm's trade confirmations for the 366 trades inaccurately reflected the representative code that [Respondent] shared only with the other active representative. [Respondent's] actions resulted in his receiving higher commissions from the 366 trades than what he was entitled to receive pursuant to the agreement. In November 2021, the firm reimbursed the retired representative. By causing his firm to maintain inaccurate trade confirmations, [Respondent] violated FINRA Rules 4511 and 2010.

(*Id.* at 59.)

Respondent consented to a 45-day suspension from associating with any FINRA member in all capacities and a \$5,000 fine. (*Id.* at 58-59.)

FINRA referred the matter to the Missouri Securities Division on December 18, 2023. (*Id.* at 65.) After an investigation, Missouri entered a consent order with Respondent in April 2024 in which Respondent agreed to pay a \$4,000 fine and to an injunction ("Missouri Consent Order"). (*Id.* at 65-66.) The Missouri Consent Order contained findings of fact that were virtually identical to those in the AWC as well as the following findings:

[The retired representative] did not authorize, consent to, or otherwise allow Respondent's changes of the [joint representative code] on the subject trades, and Respondent did not indicate to [the retired representative] that he was doing so. In his defense, Respondent claims he believed that the production number on trades in accounts could be changed because the trades were being executed after new assets were deposited into the accounts. However, Respondent placed many of the 366 trades in accounts that did not receive any new external deposits or in accounts that were historically clients of [the retired representative].

(DEC Book at 64.)

Contrary to these findings, Respondent testified that the retired representative consented to the commission sharing arrangement, including the treatment of new assets. Respondent says that he, his group leader, and the retiring advisor sought guidance from firm personnel on how to account

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for pre-retirement versus post-retirement business to ensure that the retiring representative was properly compensated. (*Id.* at 71-72; Tr. 67-68.) Respondent testified that they had an oral side agreement under which the retiring representative would not take any share of commissions on *new* assets added to existing accounts. (Tr. at 44, 49, 63; 81-82.) Respondent testified that his firm's compliance personnel were "in the room" when the side agreement was discussed (Tr. at 82) and that they expressed approval for the arrangement, which Respondent viewed as "just business as usual." (Tr. at 84-85.)

Respondent testified that he and his partner brought the retiring representative onto their team as an accommodation to boost his pre-retirement business and secure his ability to receive the firm's highest level of retirement compensation. (Tr. at 39-40.) Respondent maintains that some of the instances in which he changed the pre-populated codes were for accounts to which the retiring advisor had been added to boost his production (Tr. at 48; DEC Book at 71-72), but that these accounts were not to serve as the basis for his compensation *after* he retired. (Tr. at 57.) Respondent contends that the retired advisor did not express any dissatisfaction with his compensation (DEC Book at 72) and that he and the retired advisor maintain a cordial relationship. (Tr. at 58, 69.)

Respondent offered evidence reflecting sanctions imposed by FINRA and CFP Board on other similarly situated advisors. (Tr. at 10-15; DEC Book Supplement, *passim*.) These documents indicate that the mis-coding of trades in accounts subject to the retired advisor program was not an isolated issue affecting only Respondent and his branch office. (*See* DEC Book Supplement *passim* (FINRA AWCs and CFP Board discipline issued to four advisors).)

III. DISCUSSION

To impose a sanction on Respondent, the Commission must find grounds for sanction. Under Article 12 of the *Procedural Rules*, the Commission found grounds for sanction based on Respondent's violations of CFP Board's *Code and Standards*.

First Grounds for Sanction

Standard A.8.a of the *Code and Standards* states that a CFP® professional must comply with the laws, rules, and regulations governing Professional Services.

Respondent was a CFP® professional at all times relevant to these first grounds for sanction.

Article 7.2 of the *Procedural Rules* states that a record from a (a) federal, state, local, or foreign governmental agency, (b) self-regulatory organization, or (c) other regulatory authority imposing discipline upon Respondent ("Professional Discipline") is conclusive proof of the existence of such Professional Discipline and the facts and violations that serve as the basis for such Professional Discipline. Professional Discipline includes a censure, injunction, undertaking, order to cease and desist, fine, suspension, bar, or revocation, and the surrender of a professional license

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or certification in response to a regulatory action or regulatory investigation. A record of Professional Discipline includes a settlement agreement, order, consent order, and AWC.¹

FINRA is an industry self-regulatory authority. The AWC is a record of Professional Discipline by FINRA, and Respondent is the subject of that record. The AWC conclusively establishes the existence of such Professional Discipline for purposes of this disciplinary proceeding and is conclusive proof of the facts and violations that serve as the basis for such Professional Discipline.

FINRA found that Respondent's conduct violated FINRA Rule 4511², and FINRA Rule 2010.³

FINRA Rules 4511 and 2010 are rules governing Professional Services, and the AWC is conclusive proof that Respondent failed to comply with them.

Therefore, there are grounds to sanction Respondent for a violation of Standard A.8.a of the *Code and Standards*.

Second Grounds for Sanction

Standard E.3.j of the *Code and Standards* states, in relevant part, that a CFP® professional must provide written notice to CFP Board within thirty calendar days after the CFP® professional has been terminated for cause from employment or permitted to resign in lieu of termination when the cause of the termination or resignation involved allegations of dishonesty, unethical conduct, or compliance failures.

Respondent was a CFP® professional at all times relevant to these second grounds for sanction.

Respondent was terminated for cause from his former firm on January 4, 2021.

Respondent's termination involved allegations that he violated firm policy, which constitutes a compliance failure. Under Standard E.3.j of the *Code and Standards*, Respondent was required but failed to provide written notice of his termination to CFP Board by February 4, 2021.

Therefore, there are grounds to sanction Respondent for a violation of Standard E.3.j of the *Code and Standards*.

¹ Enforcement Counsel did not cite the Missouri Consent Order (discussed below) in support of these grounds for sanction.

² FINRA Rule 4511 requires member firms and associated persons to "make and preserve books and records as required under the FINRA rules, the Exchange Act and the applicable Exchange Act rules." Exchange Act Rule 17a-3(a)(8) requires member firms to make and keep "copies of confirmations of all purchases and sales of securities." Implicit in the requirement to make and preserve books and records is the requirement that information in those books and records be accurate.

³ FINRA Rule 2010 requires an associated person, in the conduct of his or her business, to "observe high standards of commercial honor and just and equitable principles of trade."

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Third Grounds for Sanction

Standard E.2 of the *Code and Standards* states that a CFP® professional may not engage in conduct that reflects adversely on his or her integrity or fitness as a CFP® professional, upon the CFP® marks, or upon the profession.

Respondent was a CFP® professional at all times relevant to these third grounds for sanction.

The Missouri Commissioner of Securities concluded that Respondent's violation of FINRA Rules and Respondent's AWC and suspension from FINRA were sufficient grounds for the Missouri Commissioner of Securities to discipline Respondent in accordance with Sections 409.4-412(c), and 409.4-412(d)(5)(C) of the Missouri Securities Act of 2003.

The Missouri Securities Division is a state regulatory authority. The Missouri Consent Order is a record of Professional Discipline by the Missouri Securities Division, and Respondent is the subject of that record. Thus, while the Commission found credible Respondent's testimony that he believed the retired representative had authorized Respondent's treatment of the subject trades and new assets, Article 7.2 of the *Procedural Rules* requires the Commission to accept the Missouri Consent Order findings as conclusive proof of the contrary facts it contains in this regard.

Therefore, the Missouri Consent Order conclusively establishes the existence of such Professional Discipline for purposes of this disciplinary proceeding and is conclusive proof of the facts and violations that serve as the basis for such Professional Discipline.

IV. THE COMMISSION'S DECISION

CFP Board has issued non-binding *Sanction Guidelines* intended to serve as guidance for determining appropriate sanctions. In determining an appropriate sanction, it is the Commission's general practice to apply the *Sanction Guidelines* in place at the time of the conduct at issue.

CFP Board has issued its non-binding *Sanction Guidelines* that are intended to serve as guidance for determining appropriate sanctions. The Commission considered the following conducts and recommended sanctions from the *Sanction Guidelines*:

Conduct 12 Employer Policies Violation. (Private Censure)

Conduct 14(a) Failure to disclose to CFP Board (Private Censure)

Conduct 31 Securities Law Violation (Public Censure)

Conduct 33 Professional Discipline involving suspension or similar for more than one calendar month and less than three calendar months (Suspension of equal length up to one year)

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The Commission cites the following factors as mitigating:

1. There is no evidence that Respondent's conduct caused harm to clients.
2. Respondent acknowledged his conduct and the harm that resulted to the retired advisor.
3. The mis-coding of trades subject to retired advisors' agreements also occurred outside of Respondent's team and branch office.

The Commission cites no aggravating factors.

The Commission has also consulted Case Histories⁴ for persuasive non-binding precedent. Case Histories 42838, 45631, 43025 and 43315 each involve similar misconduct related to commission-sharing arrangements. For a four-year course of misconduct, the CFP® professionals in CH 42838 (involving 150 trades), CH 45631 (involving 219 trades) and CH 43315 (involving 218 trades) received a Public Censure. For a 20-month course of misconduct involving 192 trades the CFP® professional in CH 43025 received a Private Censure after the Commission took into account mitigating factors—namely, that the CFP® professional had informed the former advisor about the change in commission and reverted to using firm-approved commission splits after a discussion with the compliance department.

In consideration of the violations found, the *Sanction Guidelines*, the mitigating factors, and the Case Histories, the Commission issues this Order imposing on Respondent a **Public Censure**.

SO ORDERED

Disciplinary and Ethics Commission
CFP Board

⁴ Case Histories (referred to as “ACHs” or “CHs”) are available on CFP Board's website at <https://www.cfp.net/ethics/enforcement/case-history>