

## THE DISCIPLINARY AND ETHICS COMMISSION

IN THE MATTER OF

ROBERT SEVCIK, CFP®,

Respondent.

CFP Board Case No. 2021-62900

March 11, 2025

### ORDER

#### I. PROCEDURAL HISTORY

Certified Financial Planner Board of Standards, Inc. (“CFP Board”) granted Respondent the right to use the CFP®, CERTIFIED FINANCIAL PLANNER®,  and  certification marks (“CFP Board marks”) on October 4, 2012, and he has been certified since that date. (DEC Book at 8.)<sup>1</sup>

On September 6, 2023, CFP Board Enforcement Counsel filed a Complaint with CFP Board’s Disciplinary and Ethics Commission (“Commission”) alleging that there are grounds to sanction Respondent for violations of Standards A.8.a., D.2.a., and E.3.j. of the *Code of Ethics and Standards of Conduct* (“*Code and Standards*”) and Rule 4.3 of the *Rules of Conduct*. (*Id.* at 8-15.) The Complaint cites Respondent’s termination by his firm and an October 11, 2022 Letter of Acceptance, Waiver and Consent (“AWC”) with the Financial Industry Regulatory Authority, Inc. (“FINRA”) (*Id.* at 10-11.)

Respondent answered the Complaint on June 21, 2024, admitting all of its material allegations. (*Id.* at 520-536.) On October 17, 2024, a Hearing Panel formed under Article 10.6 of the *Procedural Rules* convened to hear testimony and to review and consider documents, information and argument relevant to the Complaint. (Transcript of Hearing of Robert Shane Sevcik, CFP®, October 17, 2024 (“Tr.”) at 1.) Enforcement Counsel appeared for CFP Board; DEC Counsel appeared for the Commission and for the Hearing Panel; Respondent was represented by counsel.

#### II. FINDINGS OF FACT

##### A. Background

Respondent has passed the following FINRA examinations: (a) Series 7 – General Securities Representative Examination (2008); (b) Series 66 Uniform Law Examination (2008); and (c) SIE – Securities Industry Essentials Examination (2018). (DEC Book at 46.) Respondent has been associated with his current firm as an investment advisor representative and broker since July 26, 2021. (*Id.* at 43.)

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<sup>1</sup> The DEC Book and any other exhibits to this Order will not be published under Article 17.7 of the *Procedural Rules*.

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## **B. Respondent's Participation in the Former Advisor Program ("FAP")**

Before joining his current firm in July 2021, Respondent had been employed by a large national financial services firm since September 2008. (DEC Book at 48.) Respondent's former firm had a program by which advisors retiring from the firm would transition client accounts to an active advisor at the firm and would share commissions under an agreement between the active advisor and the firm. (DEC Book at 317-318.) To effect the proper allocation of the commissions, transactions were to be coded with a Joint Production Number ("JPN") shared by the active and retired advisors. (*Id.*) For trades in accounts covered by these agreements, the firm's system prepopulated the trade tickets with the applicable JPN. (DEC Book at 339.) The firm's policies prohibited Respondent from changing the JPN without proper notice and authorization. (DEC Book at 116.)

In 2012 and again in 2017, Respondent entered into a commission-sharing arrangement involving accounts of an advisor who was retiring from his team. (DEC Book at 90-92.) Respondent testified that he did not read either agreement before signing it (Tr. at 188) and that they "looked the same" and he "assumed [they] were the same." (DEC Book at 364.)

The 2017 agreement is different than the 2012 agreement in at least one material respect. (DEC Book at 527.) Unlike the 2012 agreement, which does not address commissions generated from assets added to the accounts after the advisor's retirement, the 2017 agreement provides that

The sharing of commissions will be limited to commissions derived from accounts held for continuing customers of the Former Advisor at the time of his/her retirement. ***The Former Advisor may receive compensation in connection with money that is added to these customers' accounts, regardless of whether the money is added to an existing account of, or to a new account opened by, a continuing customer of the Former Advisor after his/her retirement.***

(DEC Book at 486) (emphasis added.)

Respondent testified that because he did not read the agreements, he did not appreciate the difference between them. (Tr. at 188; *see also* DEC Book at 374.) Respondent contends that he changed the JPNs from those prepopulated by the firm's system to a number that credited Respondent alone for commissions because he believed that the 2017 agreement, like the 2012 agreement, did not apply to new assets deposited in brokerage accounts of pre-existing customers. (DEC Book at 180, 410.)

## **C. Respondent's Termination**

In May of 2021, Respondent's firm began an investigation into Respondent's use of JPNs under the 2017 agreement. (DEC Book at 382-385.) In July 2021, the firm notified Respondent that he had violated firm policy and the 2017 former advisor agreement by entering transactions under an

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incorrect JPN. (DEC Book at 93.) The firm rejected Respondent's offer to repay the commissions that he had received as a result in violation of the agreement and, on July 12, 2021, terminated him. (DEC Book at 243; *see also* Tr. at 186-187.) On July 28, 2021, the firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") disclosing that Respondent was terminated due to "[c]oncerns that the representative submitted transactions under production numbers that were inconsistent with [an] agreement with another representative resulting in a shortfall of revenue credited to the other representative." (DEC Book at 80-81.)

Respondent did not notify CFP Board of his termination. (DEC Book at 10.)

#### **D. Respondent's FINRA AWC**

On October 11, 2022, Respondent entered into an AWC with FINRA. (*Id.* at 82.) Respondent accepted and consented to findings, without admitting or denying them, that:

In 2012, [Respondent] entered into an agreement with a retired representative through which he agreed to service certain customer accounts, including executing trades for those accounts, under a joint representative code (also known as a joint production number) that he shared with the retired representative (Retired Representative 1). In 2017, [Respondent] entered into a separate agreement with another retired representative through which he agreed to service additional customer accounts, including executing trades for those accounts, under a joint representative code that he shared with the retired representative (Retired Representative 2). Each agreement set forth what percentages of the commissions each representative would earn on trades placed using the applicable joint representative code.

From June 2014 through May 2021, [Respondent] placed a total of 218 trades in accounts covered by his agreements with Retired Representatives 1 and 2 under representative codes other than those he should have used. Specifically, although [his firm's] system correctly prepopulated the trades with the applicable joint representative codes, [Respondent] entered the transactions under different representative codes through which he received a higher percentage of commissions than what he was entitled to receive pursuant to the agreements. [Respondent] negligently failed to verify whether the 218 transactions at issue were subject to his agreements with Retired Representatives 1 and 2. As a result, [the firm's] trade confirmations for the 218 trades inaccurately reflected [Respondent's] personal representative code or another representative code instead of the joint representative codes that [Respondent] shared with Retired Representatives 1 and 2. [Respondent's] actions resulted in his receiving higher commissions from the 218 trades than what he was entitled to receive pursuant to the agreements. In September 2021 and November 2021, [Respondent's firm] reimbursed the retired representatives. By causing [the firm] to maintain inaccurate trade confirmations, [Respondent] violated FINRA Rules 4511 and 2010.

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(*Id.* at 83.)

Respondent also consented to a one-month suspension from associating with any FINRA member in all capacities; and a \$2,500 fine. (*Id.* at 84.)

### **E. Respondent's Testimony**

In both Enforcement Counsel's investigation and the hearing in this matter, Respondent admitted and was remorseful for his misconduct:

I made a mistake. I did not read through these FAP agreements. I did not do my due diligence. And I placed trades -- with hindsight and looking back now, I placed trades and rep codes that are inconsistent with it and I'm extremely embarrassed over it.

(Tr. at 188.)

Respondent acknowledged his failure to inform himself about the FAP agreements stemmed from his own arrogance: "I thought I understood the program and I didn't seek out help or advice because I thought I was the authority on it. . . . So I was definitely a victim of my own arrogance through that period of time." (Tr. at 205; *see also* Tr. at 190;(expressing remorse for former advisors affected by his misconduct).)

Likewise, Respondent cooperated with CFP Board's investigation and took responsibility for his failure to notify CFP Board of his termination. (Tr. at 190; *see also* DEC Book at 244.) He testified that he "[doesn't] think [he] would make that mistake again." (Tr. at 190.)

He credibly testified about the steps that he has taken to ensure that his misconduct will not reoccur. He has retained an attorney to review any documents that he signs because he has recognized that "reading through legal documents is above [his] scope." (Tr. at 189.) When he joined his current firm, he was placed under heightened supervision to ensure his compliance with his prior firm's non-solicitation agreement. He testified that because he is not a part of a team at his current firm, there is only one representative code associated with his transactions, "[s]o that mistake cannot happen again." (Tr. at 191.)

### **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 violation of CFP Board's *Code and Standards*.

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### *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* provides 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 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.

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 4511<sup>2</sup>, and FINRA Rule 2010.<sup>3</sup>

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*

Rule 4.3 of the *Rules of Conduct* states that a certificant must comply with applicable regulatory requirements governing professional services provided to the client.

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

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<sup>2</sup> 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.

<sup>3</sup> 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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Article 7.2 of the *Procedural Rules* provides 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.

FINRA is an industry self-regulatory organization. The AWC is a record of Professional Discipline by FINRA, and Respondent is the subject of that record. Therefore, 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 of Respondent.

The AWC is conclusive proof that Respondent failed to comply with FINRA Rules 4511 and 2010, which are regulatory requirements governing professional services provided to the client. Therefore, there are grounds to sanction Respondent for a violation of Rule 4.3 of the *Rules of Conduct*.

#### *Third Grounds for Sanction*

Standard D.2.a. of the *Code and Standards* states that a CFP® professional will be subject to discipline by CFP Board for violating policies and procedures of the CFP® professional’s firm that do not conflict with the *Code and Standards*.

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

Respondent was an employee of his former firm at all times relevant to these third grounds for sanction.

Respondent violated his former firm’s policies and procedures when he improperly changed the joint production number for 218 trades from June 2014 through May 2021. Respondent’s violation of the firm’s policies and procedures resulted in his termination.

Therefore, there are grounds to sanction Respondent for a violation of Standard D.2.a. of the *Code and Standards*.

#### *Fourth 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 fourth grounds for sanction.

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Respondent was terminated for cause from his former firm on July 12, 2021.

The cause of the termination involved allegations that Respondent violated firm policy, which constitutes a compliance failure. Under Standard E.3.j. of the *Code and Standards*, Respondent was required to provide written notice of his termination to CFP Board by August 11, 2021. Respondent failed to provide such written notice to CFP Board.

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

#### IV. THE COMMISSION'S DECISION

Under Article 12.3 of CFP Board's *Procedural Rules*, the Commission's final order must impose a sanction if the Commission finds a violation that warrants a sanction. The Commission has discretion to order a sanction among those applicable sanctions set forth in Article 11.1.

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 up to one calendar month (30 days) (Public Censure)

The Public Censure called for by Conduct 33 is supported by the one-month suspension that FINRA imposed on Respondent.

The Commission cites the following factors as mitigating:

1. Respondent accepts responsibility for his actions;
2. There is no evidence of client harm;
3. Respondent offered to reimburse the former advisor who was affected by his misconduct; and
4. Respondent has no prior disciplinary history.

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The Commission cites the following factors in aggravating:

1. Respondent was terminated due to his violation of his firm’s policy (see Policy Notes to Conduct 12); and
2. Respondent’s violation of firm policy occurred over multiple years.

The Commission has also considered various Case Histories<sup>4</sup> to determine if any contain non-binding precedent that may be persuasive to the Commission.

Case Histories 42838, 4563, and 43025 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) and CH 45631 (involving 219 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.

Having considered Respondent’s conduct, the *Sanction Guidelines*, the aggravating and mitigating factors, and relevant Case Histories, the Commission issues this Order imposing on Respondent a **Public Censure**.

Ordered by:

Disciplinary and Ethics Commission  
CFP Board

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