

THE DISCIPLINARY AND ETHICS COMMISSION

IN THE MATTER OF

JOHN T. LUND



Respondent.

CFP Board Case No. 2022-63763

September 7, 2023

ORDER

I. Procedural Background

CFP Board granted Respondent the right to use the CFP Board certification marks (including CFP[®], CERTIFIED FINANCIAL PLANNER[™],  and  certification marks) (“CFP[®] marks”) on May 22, 2012, and Respondent has been certified since that date. (DEC Book¹ at 18.)

On August 13, 2021, CFP Board Enforcement Counsel commenced an investigation consistent with Article 1 of CFP Board’s *Procedural Rules* in CFP Board Case No. 2021-62894 (the “First Case”), by delivering to Respondent a Notice of Investigation and Request for Information and requesting certain documents and information related to a firm termination on June 6, 2021. (“First NOI.”). (*Id.* at 72-73.) On September 3, 2021, Respondent acknowledged the First NOI and delivered certain documents and information with his Response to the First NOI. (*Id.* at 74-78.)

On January 5, 2022, Respondent submitted an “Ethics Self-Reporting Form” to CFP Board with certain enclosures, reporting that his broker-dealer, a large well-known brokerage firm (“Firm”), had terminated Respondent’s representative agreement on June 6, 2021, for violations of Firm’s Electronic Signature policy. (*Id.* at 85.)

On February 9, 2022, Enforcement Counsel requested additional documents and information by delivering to Respondent a Request for Additional Information (“First RFAI”). (*Id.* at 126-127.) Respondent delivered his Response to the First RFAI on July 21, 2022, providing certain documents and information. (*Id.* at 127-128.)

On March 11, 2022, Enforcement Counsel sent Respondent an Investigation Closure Letter² with respect to the First Case, stating: “Based on the information and materials we have obtained as of this date, CFP Board is ending its investigation at this time. This correspondence should not be interpreted as evidence that CFP Board has exonerated you or otherwise determined that the conduct that was the subject of the

¹ The DEC Book and any other exhibits to this Order will not be published under Article 17.7 of the *Procedural Rules*.

² Article 1.4.a. of the *Procedural Rules* states, in relevant part:

After delivering a Notice of Investigation and investigating alleged violations of the *Code and Standards* [and] Enforcement Counsel finds no probable cause to believe that Respondent violated the *Code and Standards*, then Enforcement Counsel must dismiss the investigation as not warranting further action at this time, while reserving the right to reopen the investigation in the future.

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Investigation complied with CFP Board’s *Code of Ethics and Standards of Conduct*. CFP Board reserves the right to reopen the Investigation in the future if appropriate.” (*Id.* at 103.)

On May 4, 2022, Enforcement Counsel commenced an investigation in the instant matter, CFP Board Case No. 2021-62894, by delivering to Respondent a Notice of Investigation and Request for Information, and requesting certain documents and information related to “4/18/2022 FINRA AWC.” (“Second NOI.”) (*Id.* at 105-106.) On March 28, 2022, Respondent acknowledged the Second NOI and delivered certain documents and information with his Response to the Second NOI. (*Id.* at 74-78.)

On July 14, 2022, Enforcement Counsel requested additional documents and information by delivering to Respondent a Request for Additional Information (“Second RFAI”). (*Id.* at 126-127.) Respondent delivered his Response to the Second RFAI on July 21, 2022, providing certain documents and information. (*Id.* at 127-128.)

On January 31, 2023, Enforcement Counsel delivered a Complaint to Respondent consistent with Article 3.1 of the *Procedural Rules*, alleging that there are grounds to sanction Respondent for his alleged violations of CFP Board’s *Rules of Conduct* and CFP Board’s *Code of Ethics and Standards of Conduct* (“*Code and Standards*”). (*Id.* at 10-15.) In accordance with Article 3.1, the Complaint set forth the alleged grounds for sanction, based on Respondent’s conduct or omission to act which gave rise to the alleged violations. (*Id.*) On March 1, 2023, Respondent delivered his acknowledgement and undated Answer to the Complaint, and he requested a hearing before the Commission. (*Id.* at 152-155, 166-169.)

On June 8, 2023, a Hearing Panel of the Commission convened by video conference to review the above-described CFP Board Complaint. (Transcript of Hearing of John T. Lund, June 8, 2023 (“Lund Tr.”) at 1.) CFP Board Enforcement Counsel appeared for CFP Board; DEC Counsel appeared for the DEC and for a Hearing Panel of the Commission; Respondent appeared *pro se*. (*Id.*)

The Commission considered the Hearing Panel’s recommendation and issued its final Order on September 7, 2023.

II. Findings of Fact

A. Background

Respondent has passed the (a) Series 7 – General Securities Representative Examination (2015); (b) Series 66 – Uniform Combined State Law Examination (2015); and (c) SIE – Securities Industry Essentials Examination (2018). (*Id.* at 45.) Respondent also maintains an insurance license with the State-A Department of Insurance. (DEC Book at 69.)

Respondent stated he has been in the financial services industry for 15 years and has been managing client accounts for 11 years. (Lund Tr. at 17, 82; *see also* DEC Book at 47.) From 2005 to 2015, Respondent was employed as an investment officer at a bank, and from 2015 to 2020 Respondent was employed as an investment advisor representative at an independent broker-dealer firm. (*Id.* at 43, 47.)

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From 2020 to 2021, Respondent was employed as a registered representative and associated with Firm, the entity introduced above. (DEC Book at 43.) On June 6, 2021, Firm terminated Respondent following allegations that Respondent had “signed account and transfer documents on behalf of customers.” (DEC Book at 43, 47, 53.) On July 2, 2021, Firm filed a Form U5 terminating Respondent’s registration for “electronically signing account and transfer documents on behalf of customers in violation of Firm’s Electronic Signature policy,” which Respondent self-disclosed to CFP Board, described above. (*Id.* at 87.)

Respondent is not currently associated with any member firm, although he stated that he is in the process with a firm to become registered. (*Id.* at 43, 47, 166.) Respondent is currently employed at a small firm as an investment adviser representative/Solicitor, and at a bank where he has “financial institution responsibilities.” (*Id.* at 43, 47.)

During the hearing, Respondent expressed contrition by admitting he had made a mistake and demonstrating his concern about the effects his mistake had on his ability to serve his customers. (Lund Tr. at 16-17.) Respondent also testified he has no disciplinary or compliance history or any other customer complaints, and that his conduct at issue in this matter was an isolated incident. (Lund Tr. at 18; *see also id.* at 83 where Respondent testified that he never thought it was okay to sign a document on behalf of a client: “No. No, of course not. I mean I had never done it before. I had never thought I would ever do it.”; *see also* DEC Book at 41-70.) There is no evidence in the record contradicting this testimony.

B. Respondent Enters into a Letter of Acceptance, Waiver and Consent (“AWC”) with the Financial Industry Regulatory Authority, Inc. (“FINRA”)

On April 18, 2022, Respondent entered into a Letter of Acceptance, Waiver and Consent (“AWC”) with the Financial Industry Regulatory Authority, Inc. (“FINRA”). (DEC Book at 147-151.) In the AWC, Respondent accepted and consented to entry of FINRA’s findings, without admitting or denying them, including findings that “in March 2020, [Respondent] forged an electronic signature on two account transfer forms, two discretionary authority amendments and two new account applications without permission and electronically signed a total of seven account applications and transfer forms for four other customers with permission. Therefore, Lund violated FINRA Rule 2010 and FINRA Rules 4511 and 2010.” (*Id.* at 147.)

FINRA Rule 2010 provides that “a member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.” Violations of FINRA Rule 2010 include Forgery, Falsification, and violations of FINRA Rule 4511, which requires members to “make and preserve books and records” as required under the FINRA rules, the Securities Exchange Act of 1934 (“Exchange Act”) and the applicable Exchange Act rules. (*Id.* at 148.)

Respondent’s admissions and FINRA’s findings with respect to Respondent’s forgery include that “[o]n March 12, 2020, Respondent signed a customer’s name electronically, without permission, on two account transfer forms, two forms providing Respondent with discretionary authority over the accounts, and two new account applications. The customer’s account transfers were in connection with a bulk transfer of Respondent’s accounts from his former firm to [Firm]. The customer did not authorize Respondent to electronically sign her name and complained once she learned of the transfers, which the firm reversed.” (*Id.*) Respondent therefore violated FINRA Rule 2010. (*Id.*)

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Respondent's admissions and FINRA's findings with respect to Respondent's falsification include that "[i]n March 2020, Respondent also electronically signed, with prior permission, three account transfer forms and four new account applications for a total of four other customers, one of whom was a senior.... By falsifying customer signatures, Respondent violated FINRA Rule 2010. In addition, by causing [REDACTED] to maintain inaccurate books and records, Respondent violated FINRA Rules 4511 and 2010." (*Id.*)

In the AWC, Respondent consented to FINRA imposing sanctions, which included a four-month suspension from Respondent associating with any FINRA Member in all capacities, and a \$5,000 fine (*Id.* at 149.)

As described in the above procedural history, Firm filed a Form U5 on July 2, 2021, which terminated Respondent's registration for violating Firm's Electronic Signature policy. (*Id.* at 87, 147.) FINRA cited Firm's U5 in the AWC, and specifically found that "Firm's policies and procedures prohibited signing a customer's name or initials regardless of the customer's knowledge or consent." (*Id.* at 148.)

During his hearing before the Commission on this matter, Respondent asserted that his forgery and falsification were unintentional—he had been viewing one client's account documents and transfer paperwork through his firm's DocuSign management system and clicked the "submit" button instead of the "cancel" button, and his Firm's Customer Service Desk had told him to execute the other clients' paperwork with only the clients' verbal authorizations due to a technical issue with the firm's DocuSign software and certain limitations of COVID. (Lund Tr. at 35, 37-38, 49-88.)

However, the Hearing Panel found that Respondent was not credible when he testified that his actions were unintentional, and the Commission agreed.

C. Respondent's Inaccurate Statement to CFP Board Enforcement Counsel

On February 9, 2022, prior to Respondent's AWC, CFP Board Enforcement Counsel requested in its First RFAI that Respondent "provide copies of all correspondence between you and FINRA; in particular any Notices of Investigation or Close of Investigation letters." (*Id.* at 102.) That day, in his Response to the First RFAI, Respondent stated to Enforcement Counsel that he had not had any correspondence with FINRA since November 10, 2020. (*Id.* at 101.) At least in part due to Respondent's representation, Enforcement Counsel closed its investigation with respect to the First Case on March 11, 2022. (*Id.* at 88.)

Yet, on October 5, 2021, FINRA *had* sent correspondence to Respondent. (*Id.* at 129.) The correspondence appears to be a letter on FINRA letterhead, with only Respondent's name and FINRA matter number in the subject line, signed by "[**John Doe**], Counsel," and in the upper-right corner, ***Department of Enforcement*** appears in small italics print with the counsel's contact information. (*Id.*) (Emphasis added.) The letter states in relevant part:

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Dear [Respondent],

FINRA's Department of Enforcement has received a referral under the above matter number involving potential violations of the federal securities laws or FINRA, NASD, or MSRB rules by you.

This matter has been assigned to me and I am reviewing the file and related documents and information. Our review of this matter should not be construed as an indication that the Department of Enforcement or its staff has determined that any violations of federal securities laws or FINRA, NASD, or MSRB rules have occurred.

(*Id.*)

During the hearing and in his Answer to the Complaint, Respondent admitted he was aware that he had received this letter from FINRA when he submitted his Response to the First RFAI, but he did not understand that the letter was FINRA's notice to Respondent that his matter had been referred to FINRA's Department of Enforcement and had changed from an "inquiry" into an "investigation." (Lund Tr. at 40-48; DEC Book at 169.) Respondent further stated that he conferred with his attorney, and Respondent's attorney advised him that the letter was only an acknowledgement that FINRA had assigned the matter to a new staff member. (Lund Tr. at 40-48; DEC Book at 167, 169.) Respondent asserted this belief was reasonable because in late September 2021, Respondent's attorney telephoned FINRA to obtain an update on the matter, and FINRA sent the above correspondence approximately one week later, on October 5, 2021. (*Id.*) Specifically, Respondent's counsel told him that a FINRA representative told his counsel FINRA was "still reviewing my case and that nothing had changed," according to Respondent. (Lund Tr. at 20.) As a result, according to Respondent, his attorney advised him that the letter was administrative, and Respondent therefore believed the letter was not responsive to CFP Board Enforcement Counsel's First RFAI. (*Id.* at 40-48; DEC Book at 167, 169.) Respondent further stated that he was unfamiliar with FINRA's processes and relied on his attorney's advice. (*Id.*)

The Hearing Panel found, and the Commission agreed, that Respondent appeared to be credible in his defense that he relied on the assistance of his counsel and that he reasonably believed FINRA's correspondence on October 5, 2021 was not responsive to CFP Board Enforcement Counsel's First RFAI.

III. Discussion of Respondent's Misconduct

To impose a sanction on Respondent, the Commission must find grounds for sanction. The Commission found grounds for sanction under CFP Board's *Procedural Rules* because it determined that Respondent violated CFP Board's *Rules of Conduct*, as discussed below. The Commission made its decision based on the authority granted to it in Article 12 of the *Procedural Rules*.

First Ground for Sanction

CFP Board Enforcement Counsel's Complaint alleged there are grounds to sanction Respondent for a violation of Rule 4.3 of the *Rules of Conduct*, which provides that a CFP® professional shall be in

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compliance with applicable regulatory requirements governing professional services provided to the client.

In the AWC, FINRA found that 1) Respondent forged electronic signatures on two account transfer forms, two discretionary authority amendments and two new account applications, in violation of FINRA Rule 2010; 2) Respondent additionally electronically signed three account transfer forms and four new account applications for four other customers in violation of [REDACTED]'s policies and procedures, in violation of FINRA Rule 2010; and 3) by virtue of the foregoing caused his firm's books and records to be false, in violation of FINRA Rules 4511 and 2010.

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. The fact that Respondent has not admitted or denied the findings contained in the record does not affect the conclusiveness of the proof. 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 organization. The FINRA 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 set forth in the Complaint that that serve as the basis for such Professional Discipline of Respondent.

The FINRA AWC is conclusive proof that Respondent failed to comply with FINRA Rules 2010 and 4511, which are regulatory requirements governing forgery and books and records.

Respondent was a CFP® professional at all times relevant to this violation.

Therefore, there are grounds to sanction Respondent for a violation of Rule 4.3 of the *Rules of Conduct*.

Second Ground for Sanction

CFP Board Enforcement Counsel's Complaint alleged there are grounds to sanction Respondent for a violation of Rule 5.1 of the *Rules of Conduct*, which provides that a CFP® professional who is an employee/agent shall perform professional services with dedication to the lawful objectives of the employer/principal and in accordance with CFP Board's *Code of Ethics*.

As set forth above, FINRA found in the AWC that in March 2020, Respondent electronically signed, with prior permission, three account transfer forms and four new account applications for a total of four customers, one of whom was a senior, in violation of [REDACTED]'s policies and procedures.

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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.

The fact that Respondent has not admitted or denied the findings contained in the record does not affect the conclusiveness of the proof. 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 organization. The FINRA 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 set forth in the Complaint that that serve as the basis for such Professional Discipline of Respondent.

Respondent was a CFP® professional at all times relevant to this violation.

The FINRA AWC is conclusive proof that Respondent violated Firm’s Electronic Signature policy.

Therefore, there are grounds to sanction Respondent for a violation of Rule 5.1 of the *Rules of Conduct*.

Third Ground for Sanction

CFP Board Enforcement Counsel’s Complaint alleged there are grounds to sanction Respondent for a violation of Standard E.5. of the *Code and Standards*, which provides that a CFP® professional may not make false or misleading representations to CFP Board or obstruct CFP Board in the performance of its duties. A CFP® professional must satisfy the cooperation requirements set forth in CFP Board’s *Procedural Rules*, including by cooperating fully with CFP Board’s requests, investigations, disciplinary proceedings, and disciplinary decisions.

Respondent was a CFP® professional at all times relevant to this violation.

CFP Boards Counsel did *not* meet its burden to prove that Respondent made a false or misleading representation to CFP Board, obstructed CFP Board’s performance of its duties, or failed to satisfy the cooperation requirements set forth in CFP Board’s *Procedural Rules*. The Commission found Respondent’s testimony and assertions credible that (1) Respondent proactively sought his counsel’s advisement on FINRA’s October 5, 2021 letter, and according to Respondent, his counsel advised that the letter was only an administrative notice that FINRA had assigned Respondent’s matter to another FINRA staff member, and (2) Respondent’s counsel further told Respondent that he had called FINRA, and a FINRA representative told Respondent’s counsel that FINRA was “still reviewing my case and that nothing had changed,” according to Respondent. (Lund Tr. at 20.)

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Furthermore, Respondent's representation was not misleading or obstructive because Respondent, relying on his advice of counsel, reasonably believed that his representations to CFP Board were truthful and accurate and that he was cooperating fully with CFP Board's request and investigation.

Therefore, there are **no** grounds to sanction Respondent for a violation of Standard E.5. of the *Code and Standards*.

IV. The Commission's Decision

Pursuant to 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 does warrant a sanction. The Commission has discretion to order a sanction among those applicable sanctions set forth in Article 11.1.

After carefully considering the evidence in Respondent's matter and the violations found, the Commission determined to **Suspend for Four (4) Months** Respondent's right to use the CFP® marks.

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

- Conduct 2: Books and Records Violation (Private Censure)
- Conduct 12: Employer Policies Violation (Private Censure)
- Conduct 19: Forgery (Suspension for at least one year and one day)
- Conduct 31: Securities Law Violation (Public Censure)
- Conduct 35: Professional Discipline defined in 7.2 for more than three months (90 days) (Suspension for at least one year and one day)

The Policy Notes to Conduct 12 state: "If the Firm terminated the Respondent due to the violation, the termination should be considered as an aggravating factor."

The Policy Notes to Conduct 19 state: "The following should be considered additional aggravating or mitigating factors in determining the appropriate sanction: (1) What is the nature of the documents that were either forged or falsified? (2) Did the CFP® professional mistakenly believe he or she had implied authority? (3) What was the CFP® professional's intent?"

The Policy Notes to Conduct 31 state in relevant part: "Inquire whether the CFP® professional knowingly violated the securities laws or whether it was his/her negligence that led to a violation of securities laws. Intentional acts should be treated more seriously than negligent acts."

The Commission then reviewed the aggravating and mitigating factors in this case to determine whether there were any material factors relevant to this matter, and, if so, what weight those factors may have in its decisions.

In aggravation, the Commission cited that Respondent acted intentionally in some instances submitting client documents electronically without his clients' signatures and consent and later then obtaining those

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clients' wet signatures and verbal authorizations. (See DEC Book 124-125.) Although Respondent appeared credible in other respects, Respondent was not credible when he testified that his forgeries and falsifications were *unintentional*.

In mitigation, the Commission cited that:

1. Respondent's intention was to facilitate his clients' objectives by forging their signatures—there is no evidence Respondent intended to personally gain or did personally gain through his forgery;
2. Respondent mistakenly believed that he had implied authority to sign certain documents on behalf of customers because Firm staff provided misinformation to Respondent. Furthermore, three of the four clients described in the AWC provided their oral affirmation to Respondent that he may submit their signatures on their behalf;
3. The nature of the documents Respondent had forged was not significant (two account transfer forms, two discretionary authority amendments, and two new account applications);
4. Respondent admitted that he had made a mistake, and through his testimony demonstrated sincere remorse before the Commission;
5. Respondent's inaccurate statement to CFP Board was unintentional—the Commission found Respondent to have reasonably believed the veracity of his statement to CFP Board that FINRA had not issued further correspondence; and
6. Respondent's inaccurate statement to CFP Board was unintentional—Respondent reasonably relied on the advice of his counsel.

The Commission then consulted various *Case Histories* (referred to as "ACHs" or "CHs") to determine if any Case Histories contained precedent that warranted a deviation from the *Sanction Guidelines*. The Commission considered ACH 30094, ACH 41680, and ACH 43257. The Commission reviewed ACH 27322, ACH 28497, and ACH 30255.

In ACH 27322, a CFP® professional was terminated following a client complaint that he had recommended unsuitable investments and forged the client's signature on various account documents. The National Association of Securities Dealers ("NASD") reviewed the termination and issued to the CFP® professional a Letter of Caution. The client then filed a Statement of Claim against the CFP® professional and his broker-dealer in NASD Arbitration and his broker-dealer settled the case with the client for \$40,000. The CFP® professional then failed to disclose that he was a respondent in an NASD arbitration and made false or misleading statements to CFP Board when he answered "No" on two Ethics Declarations related to his CFP® certification Renewal Application, even though he testified that he understood the question but answered erroneously. The Commission in ACH 27322 determined the CFP® professional violated Rules 102, 201, 406, 606(b), 606(a), 607, and 612 of CFP Board's former *Code of Ethics*, and Article 3(g) of CFP Board's former *Disciplinary Rules*, finding eight (8) grounds for sanction. That Commission cited no mitigating factors and cited in aggravation that (1) the CFP® professional failed to demonstrate that he understood the significance or consequence of his actions; and (2) admitted to signing clients' names on multiple occasions, which warranted an upward deviation from the sanctions issued in ACH 24519, ACH 21589, and ACH 24651. As a result, the Commission in ACH 27322 issued to the CFP® professional a Suspension for One Year and One Day and ordered him to complete 30 additional hours of continuing education ("CE").

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ACH 27322 is distinguishable in that the CFP® professional's broker-dealer in ACH 27322 settled a NASD Arbitration with the complaining customer for \$40,000, whereas the complaining customer in Respondent's matter ultimately did not suffer any financial losses and did not file a claim against Respondent or Firm. The CFP® professional in ACH 27322 also failed to disclose the NASD Arbitration by making two false or misleading representations to CFP Board on two Ethics Declarations, whereas Respondent relied on his counsel's advice and believed that his representations to CFP Board were accurate.

In ACH 28497, a CFP® professional was terminated for violating firm policy when he used a client's authentic signature from an Individual Retirement Account (IRA) Adoption Agreement to "facilitate" a client's request by forging an IRA Distribution Form. The Commission in ACH 28497 found the CFP® professional violated Rules 4.4, 5.1 and 6.5 of the *Rules of Conduct* and issued to him a Public Censure. The Commission in that case cited no aggravating factors and cited in mitigation that (1) there was no client harm—he carried out the client's request; (2) the nature of the forged document was an RMD form that was unchanged from prior years; (3) the CFP® professional's intention was to assist the client; and (4) the misconduct was an isolated event. The Commission in ACH 28497 noted that the mitigating factors warranted a downward deviation from the one year and one day sanction for forgery recommended in the *Sanction Guidelines*. The Commission in the instant matter found the mitigating factors in ACH 28497 to be similar, except ACH 28497 did not involve a FINRA suspension or false statement to CFP Board as in the instant matter.

In ACH 30255, a CFP® professional was terminated by his employer then consented to a four-month suspension pursuant to an AWC with FINRA, similar to Respondent's matter, however the CFP® professional in ACH 30255 then failed to disclose to CFP Board either the termination or the FINRA AWC, whereas there are no allegations that Respondent failed to disclose either his termination or his FINRA AWC. The Commission in the instant matter found ACH 30255 instructive, because the Commission in ACH 30255 issued to the CFP® professional a suspension for five months, aggravating up from FINRA's four-month suspension, while the Commission in the instant matter determined not to aggravate Respondent's four-month suspension from FINRA because there are no allegations that Respondent failed to disclose both his termination and his FINRA AWC.

The Commission determined that the mitigating factors in Respondent's matter justify a downward departure from the recommended sanction of a Suspension of *at least* one year and one day set forth in the *Sanction Guidelines*. Therefore, the Commission determined to issue a sanction consistent with the four-month suspension that Respondent consented to and FINRA issued in the AWC.

As a result, in light of the substantial evidence that supports the Commission's factual findings and the violations found, and the weight of the aggravating and mitigating factors with respect to the *Sanction Guidelines* and the ACHs reviewed, the Commission issues to Respondent an **Order of Suspension for Four Months**.

Ordered by:
CFP Board's Disciplinary and Ethics Commission