

**CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.
WASHINGTON, D.C.**

In the Matter of

Christopher A. Hynes

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CONSENT ORDER

No. 2023-64606

Certified Financial Planner Board of Standards, Inc. (“CFP Board”) and Christopher A. Hynes (“Respondent”) agree that Respondent has violated CFP Board’s *Code of Ethics and Standards of Conduct* (“*Code and Standards*”). Respondent consents to the entry of this Consent Order and to CFP Board issuing the below listed sanction(s) against Respondent. The relevant details are set forth below in this Consent Order.

A. FINDINGS OF FACT

The Findings of Fact to which the Respondent consents are set forth below:

Background

1. Respondent became a CFP® professional on February 11, 2002, and he let his certification expire on January 31, 2024.
2. Respondent passed the Series 66 – Uniform Combined State Law Examination (2000).
3. Respondent is currently the President of Hynes Financial Services, LLC and a lawyer licensed in Massachusetts.

A. Respondent Provides Financial and Retirement Planning to his Clients

4. In November of 2015, Respondent was referred to Husband and Wife (the “Clients”) by an insurance advisor. Husband had recently left his job and the couple wanted to know if they were “financially able to retire.”
5. Respondent reviewed the Clients’ financial information. To begin, Respondent determined that the total after-tax spendable income needed was approximately \$51,000 +/- a year. Respondent stated that the Clients had three income sources, each had social security and Husband had required minimum distributions from a 401k. The total income did not meet Respondent’s calculated annual after-tax income needs for the Clients. The Clients had a combined liquid net worth of \$411,000 which consisted of \$260,000 cash, \$47,000 in company stock, \$91,000 in a 401k and \$13,000 from a pension.
6. As part of the planning process, Respondent recommended a five-year rolling “bucket” strategy. Respondent and the Clients discussed options for the first bucket that would provide cashflow for the first five years of retirement. They also discussed using accumulated cash or laddered certificates of deposit for the first bucket and other options. Respondent ultimately recommended Structured Cash Flows (SCFs) from Future Income Payments (FIP) as a means of creating the five-year income stream because this investment offered a higher rate of return than cash alternatives.
7. Respondent explained to the Clients that SCFs were a series of contracts between federal pensioners and FIP. Essentially, people entitled to federal pension payments had contractually assigned their rights to those payments to FIP in exchange for a lump sum.

8. Respondent created summary worksheets illustrating the distributions from FIP along with the couple's other income. In addition, Respondent created planning recommendations in writing that illustrated the various recommendations for retirement income.

9. Ultimately, on February 3, 2016, the Clients purchased \$87,571.26 worth of FIP. The purchase agreement contained several disclosures regarding the risk associated with the investment, including, but not limited to:

- *Illiquid Asset.* There is currently no recognized secondary market for the Purchased Asset, and it is extremely unlikely that one will develop; thus, if Purchaser wishes to sell the Purchased Asset prior to the end of the Term, it will likely be difficult or impossible to do so. In order to receive all payments comprising the Purchased Asset, the Purchaser will be required to hold the Purchased Asset until the expiration of the Term.
- *Prohibitions in Law.* U.S. federal law currently prohibits the assignment or alienation of pension payments for both military and non-military pensions. However, FIP believes the law in the area of what constitutes an "assignment or alienation" is unsettled. For example, some courts have held the sale of cash flows from military pensions, where the purchased cash flows are deposited into an account controlled by the purchaser, are prohibited by federal law, while others have held such transactions are not prohibited. FIP does not have the purchased cash flows deposited into an account it controls, nor assigned directly to an escrow account, but instead has the purchased payment amount forwarded to a purchaser after the seller has taken receipt of the funds. FIP is not aware of any case which has held that the sale of a pension payment is prohibited by federal law after receipt of the funds by the seller, or any case which has held that the sale of a non-military pension is prohibited by federal law. Under its contract, FIP believes the sale of the Purchased Asset does not constitute a prohibited assignment or alienation. This may, however, change and the federal or state governments may pass and implement laws specifically prohibiting the sale of military and non-military pensions in transactions such as those contemplated in this Agreement, even where the purchased cash flows are not deposited in an account controlled by the purchaser. In the event laws prohibiting such transactions were passed, it is unknown whether the Purchaser, would receive all of the payments comprising the Purchased Asset, and FIP may not be able to recover any of the purchase price paid to the Original Seller resulting in the Purchaser suffering a significant loss on the Purchase Price of the Purchased Asset.
- *Characterization of Sale Transactions as Loans.* FIP has undertaken good faith efforts to structure the purchase of the cash flows comprising the Purchased Asset from the Original Seller as a sale, rather than a loan, transaction. Notwithstanding these efforts, FIP has received requests for information and/or subpoenas from state regulators seeking documents and information in order to permit such regulators to make their own determination of whether these transactions are loans or sales transactions. In the event that these transactions are determined to be loans, rather than purchases, by the pertinent regulator and if FIP cannot obtain an appropriate lender's license in the pertinent jurisdiction, it is possible that state regulators may require FIP to cease collecting the cash flows comprising the Purchased Asset with the result that purchasers of cash flows in the impacted jurisdictions will not receive all payments comprising the Purchased Asset.

No Guarantees of Payment. While FIP has taken certain steps (described in Section 7 below) to mitigate some of the risks set forth in this Section 6.3, FIP MAKES NO GUARANTEE PURCHASER WILL RECEIVE ALL PAYMENTS COMPRISING THE PURCHASED ASSET. The mechanisms put in place by FIP to mitigate some of the risks of purchasing the Purchased Asset may not cover the payments comprising the Purchased Asset indefinitely.

10. Respondent stated that he conducted extensive due diligence into FIP. His due diligence included reviewing a legal memo regarding the characterization of FIP's purchases of pension payments and a Department of Labor letter ending an investigation into FIP. The conclusion of the legal opinion stated:

In sum, while there appears to be more case law supporting the position that when FIP enters into a purchase transaction with a military pensioner it is not violating the provisions of federal law that prohibit the alienation/assignment of such funds, virtually all of that precedent is from bankruptcy proceedings, and much of that in unreported cases; thus, the precedential value of such decisions is questionable. Nevertheless, the better reasoned decisions appear to conclude that once the funds have been paid to the pensioner the federal government's role in policing how the pensioner chooses to allocate those funds is ended, and it then falls to the pensioner to make such decisions on his own behalf.

11. Respondent is a licensed attorney.

12. After the Clients' purchase, the Consumer Finance Protection Bureau ("CFPB") and several state attorneys general determined that the fixed income products were not purchases, but rather they were usurious loans from FIP.

13. On April 1, 2018, the Clients stopped receiving monthly payments.

14. It was later determined that FIP had orchestrated a Ponzi scheme and the owner eventually went to prison for 10 years.

B. Respondent investigated by State and Enters into a Consent Order

15. On April 22, 2020, Respondent received an inquiry from the Massachusetts Securities Division regarding his Clients and the investment in FIP. On May 14, 2020, Respondent provided his response to the Massachusetts Securities Division. In his response, he stated that he provided a retirement income plan for the clients.

16. On November 7, 2022, Respondent and the state entered into a Consent Order.

17. The Consent Order found that:

- a. from October 30, 2015 until March 9, 2016, Respondent was an independent contractor for The Patriot Financial Group Insurance Agency, LLC. ("Patriot")
- b. Respondent did not become registered as an investment adviser representative of Patriot until November 8, 2016.
- c. Respondent received \$2,889.99 as a referral fee for his recommendation that the Clients invest in FIP.
- d. Respondent violated Mass. Gen. Laws. C. 110A, Section 201(c), which finds it unlawful for any person to transact business in Massachusetts unless he is registered under the Act because Respondent was not properly registered with the state when he made recommendations to the Clients.

18. As a result, Respondent consented to the violation and was ordered to Cease and Desist from any further violations. He was censured by the Division. Respondent was temporarily barred from seeking registration for five years from the date of the Consent Order or before November 7, 2027.

19. Respondent was ordered to disgorge the \$2,889.99 commission he received while unregistered. Respondent was also ordered to pay restitution to the Clients of \$41,999.00 and pay a \$25,000 fine to the state.

B. GROUNDS FOR SANCTION

The Grounds for Sanction to which the Respondent consents are set forth below:

FIRST GROUND FOR SANCTION

1. There are grounds to sanction Respondent for a violation of Rule 1.4 of the *Rules of Conduct*, which provides that a certificant shall at all times place the interest of the client ahead of his or her own. When the certificant provides financial planning or material elements of financial planning, the certificant owes to the client the duty of care of a fiduciary as defined by CFP Board.

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

3. Respondent provided the Clients with financial planning or material elements of financial planning.

4. Respondent breached his fiduciary duty by recommending an unsuitable investment because the Clients were retired and needed a more conservative investment that would not be exposed to a complete loss. In addition to being a CFP® professional, Respondent is a licensed lawyer and should have known from reading the risk disclosures, the legal memo and the DOL letter that there was substantial risk of loss to the Clients' investment.

5. Moreover, as a fiduciary providing financial planning or material elements of financial planning, Respondent had an obligation to comply with the *Financial Planning Practice Standards* ("Practice Standards") to meet his fiduciary obligation under Rule 1.4. Respondent violated *Practice Standard 400-2* which states that the financial planning practitioner shall develop the recommendation(s) based on the selected alternative(s) and the current course of action in an effort to reasonably meet the client's goals, needs and priorities.

6. Respondent's recommendation was not suitable to meet the Clients' goals, needs and priorities because Respondent recommended that the Clients rely on their first five years of retirement income solely from one investment that was, illiquid, with no guarantee of payment and subject to a complete loss.

7. Therefore, there are grounds to sanction Respondent for a violation of Rule 1.4 of the *Rules of Conduct*.

SECOND GROUND FOR SANCTION

8. There are grounds to sanction Respondent for a violation of Rule 4.5 of the *Rules of Conduct*, which provides that in addition to the requirements of Rule 1.4, a certificant shall make and/or implement only recommendations that are suitable for the client.

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

10. Respondent recommended an unsuitable investment to his retired Clients that needed a more conservative investment and one that would not be exposed to a complete loss. In addition to being a CFP® professional, Respondent is a licensed lawyer and should have known from reading the risk disclosures, the legal memo and the DOL letter that there was substantial risk of loss to the Clients investment. Relying on this investment to generate income for the first five years of retirement was not suitable because the investment was risky, illiquid and without any guarantee of payment.

11. Therefore, there are grounds to sanction Respondent for a violation of Rule 4.5 of the *Rules of Conduct*.

THIRD GROUND FOR SANCTION

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

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

14. 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 Letter of Acceptance, Waiver, and Consent (“AWC”).

15. The Commonwealth of Massachusetts is a state government agency which specifically found that:
- Respondent acted as an unregistered investment adviser; and
 - Respondent violated Sections 201(c) and 206(2) of Massachusetts law or providing professional services in the state without registration.

16. The Consent Order is conclusive proof of the facts and violations that serve as the basis for Respondent’s Professional Discipline.

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

18. As set forth in Article 7.5 of the *Procedural Rules*, since Respondent’s Professional Discipline has been conclusively proven, Respondent may not challenge the fact of the Professional Discipline and may introduce evidence only concerning an appropriate sanction resulting from the Professional Discipline. Respondent shall have the right to be heard by the Hearing Panel only on matters of rebuttal of any other evidence presented by CFP Board Counsel other than proof of Professional Discipline and the facts and violation underlying that Professional Discipline.

FOURTH GROUND FOR SANCTION

19. There are grounds to sanction Respondent for a violation of Rule 6.5 of the *Rules of Conduct* which provides that a certificant shall not engage in conduct which reflects adversely on his integrity or fitness as a certificant, upon the CFP® marks, or upon the profession.

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

21. Conduct that reflects adversely on a certificant’s integrity or fitness, upon the CFP® marks, or upon the profession includes a Consent Order that required Respondent to pay restitution for an investment he recommended to his Clients. This publicly available discipline that includes restitution to a client for a failed investment reflects adversely on the marks.

22. Pursuant to Article 7.2 of the *Procedural Rules* Respondent’s breach of fiduciary duty reflects adversely on his integrity and upon the CFP® marks.

23. Therefore, there are grounds to sanction Respondent for a violation of Rule 6.5 of the *Rules of Conduct*.

C. MITIGATING AND AGGRAVATING FACTORS

1. The following are mitigating factors relevant to this Consent Order:
 - a. This appears to be an isolated incident.
2. The following are aggravating factors relevant to this Consent Order:
 - a. Respondent’s misconduct resulted in monetary harm to customers, which he was required to rectify and did personally rectify.

D. SANCTION

1. CFP Board imposes the following sanction(s) on Respondent: **Temporary Bar for one year and one day.**

E. PUBLICATION OF SANCTION

1. CFP Board will publish this Consent Order and a press release on CFP Board's website, and in any other form of publicity that CFP Board determines is appropriate.

2. RESPONDENT CONSENTS TO THE PUBLICATION OF THIS PUBLIC SANCTION, IN ACCORDANCE WITH ARTICLE 17.7 OF THE PROCEDURAL RULES.

F. REQUIRED ACTIONS AFTER SANCTION

1. Pursuant to Article 11.2 of the *Procedural Rules*, within 45 calendar days of the effective date of this Consent Order, Respondent must deliver to Enforcement Counsel, by sending an email to discipline@cfpboard.org, written evidence that Respondent:

- a. Has advised Respondent's Firm(s), in writing, of the Temporary Bar in the manner set forth in Standard D.3 of the *Code and Standards*;
- b. Has advised all Clients (as Client is defined in the Glossary to the *Code and Standards*) of the Temporary Bar and provided all Clients the location of CFP Board's website that sets forth Respondent's disciplinary history in the manner set forth in Standard A.10 of the *Code and Standards*; and
- c. Will advise all future Clients of the location of CFP Board's website that sets forth Respondent's disciplinary history, according to Standard A.10 of the *Code and Standards*.

2. Respondent must not use the CFP® certification marks, state or suggest that Respondent is a CFP® professional or hold out Respondent to the public as being certified by CFP Board. Pursuant to Article 11.3 of the *Procedural Rules*, within 45 calendar days of the effective date of this Consent Order, Respondent must deliver to Enforcement Counsel, by sending an email to discipline@cfpboard.org, Respondent's statement of assurance that Respondent will not use the CFP Board certification marks and will comply with the terms of this Consent Order and proof that Respondent:

- a. Has ceased all use of the CFP® certification marks and not stated or suggested that Respondent is a CFP® professional at any time following the effective date of this Consent Order; and
- b. Has removed the CFP® certification marks from all internet sites and all tangible materials that Respondent exposes to the public, including screenshots of the businesses, social media, and third party financial advisor listing website profiles that Respondent controls, pictures of signage, and, when applicable, copies of Respondent's new interim business cards, letterhead, marketing and promotional materials, as well as pictures of any other materials Respondent controls in which the CFP® certification marks previously appeared publicly in reference to Respondent or Respondent's services.

3. If Respondent fails to provide the information required by Section F of this Consent Order within the required time frame, then Enforcement Counsel may declare Respondent in default and move for an Administrative Order under Article 4.2 of the *Procedural Rules*.

4. **Petition for Reinstatement After a Temporary Bar of More than One Year.** If CFP Board issues a Temporary Bar of more than one year, then Respondent may file a Petition in accordance with Article 14 of the *Procedural Rules*, no earlier than six months prior to the last day of the Temporary Bar and no later than five years from the first date of the Temporary Bar. If the DEC grants the Petition for Reinstatement After a Suspension, then Respondent must timely satisfy any remaining CFP Board certification requirements before CFP Board will reinstate Respondent's Certification and Trademark License. If Respondent does not request reinstatement eligibility within five years

of the date in which his certification lapsed, then Respondent has relinquished CFP® certification permanently, with no opportunity for reinstatement.

G. PAYMENT OF DEC REVIEW FEE

1. Respondent agrees to pay the DEC Review Fee as reflected in invoice no. 3546014 within 30 days from the date on the invoice.

2. If Respondent is unable to pay the required DEC Review Fee, Respondent agrees to submit a Fee Waiver Request to CFP Board within 30 days from the date on invoice no. 3546014.

- a. If CFP Board determines that Respondent does not qualify for a fee waiver, Respondent agrees to pay the DEC Review Fee as reflected in invoice no. 3546014 within 30 days from the date of CFP Board's fee waiver determination.
- b. If CFP Board determines that Respondent qualified for a reduction of the DEC Review Fee, Respondent agrees to pay the reduced DEC Review Fee as reflected in invoice no. 3546014 within 30 days from the date of CFP Board's fee waiver determination.
- c. If CFP Board determines the Respondent qualified for a waiver of the DEC Review Fee, CFP Board will void invoice no. 3546014, and Respondent will not be responsible for the DEC Review Fee.

H. WAIVER OF PROCEDURAL RIGHTS

1. Pursuant to Article 8.2.a.6. of the *Procedural Rules*, Respondent specifically and voluntarily waives the following rights granted under CFP Board's *Procedural Rules*:

- a. To have the opportunity to answer the allegations contained in the Complaint in writing;
- b. To defend against the allegations in a disciplinary hearing before a hearing panel of the DEC, to have a written record of the hearing made, and to have a written decision issued;
- c. To appeal to CFP Board's Appeals Commission; and
- d. To challenge or contest any issue related to the Consent Order or the Article 17.7 publication of any public sanction in any other contractual or judicial forum, including an arbitration, in an action or proceeding in which CFP Board is a party.

2. Respondent will not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, (a) denying, directly or indirectly, any finding in the Consent Order or any statement in the Article 17.7 publication of the public sanction, or (b) creating the impression that the Consent Order or the Article 17.7 publication of the public sanction is without factual basis.

I. EFFECTIVE DATE OF CONSENT ORDER

1. The effective date of this Consent Order shall be the Effective Date of the Amendment to the *Terms and Conditions of Certification and Trademark License*, to which this Consent Order is attached.

Respondent

Date: 1/27/2025

DocuSigned by:
By: Chris Hynes
Christopher Hynes

CFP Board

Date: 4/30/2025

By: /s/ Kelly Kaufman, CFP®, Chair
Disciplinary and Ethics Commission