

## THE DISCIPLINARY AND ETHICS COMMISSION

IN THE MATTER OF

MICHAEL H. GROSS,



Respondent.

CFP Board Case No. 2024-64689

May 9, 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 marks”) on January 28, 2010, and he has been certified since that date. (DEC Book at 5.)<sup>1</sup>

On August 19, 2024, Enforcement Counsel filed a Complaint (“Complaint”) with CFP Board’s Disciplinary and Ethics Commission (“Commission”) alleging grounds to sanction Respondent for violations of Standard A.1., Standard A.2.b., and Standard A.8a. of the *Code of Ethics and Standards of Conduct* (“*Code and Standards*.”) (*Id.* at 3-10.) The Complaint cites a February 15, 2023 order Respondent entered into with the Kentucky Department of Financial Institutions. (“DFI”) that found multiple violations of Kentucky securities laws and regulations by Respondent and his advisory firm (“Consent Order”). (*Id.*)

Respondent filed an undated Answer to the Complaint, admitting to certain allegations while denying others. (*Id.* at 173-175.)

On February 27, 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 Gross, CFP®, February 27, 2025 (“Tr.”) at 1.) Enforcement Counsel appeared for CFP Board; DEC Counsel appeared for the Commission and for the hearing panel; Respondent appeared on his own behalf.

#### II. FINDINGS OF FACT

##### A. Background

Respondent has passed the (a) Series 7 – General Securities Representative Examination (1998); (b) Series 63 – Uniform Securities Agent State Law Examination (1998); (c) Series 65 – Uniform

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 The DEC Book and any other exhibits to this Order will not be published under Article 17.7 of the *Procedural Rules*.

IN THE MATTER OF MICHAEL H. GROSS  
CFP Board Case No. 2023-64689  
May 9, 2025

Investment Advisor Law Examination (2001); and (d) SIE – Securities Industry Essentials Examination (2018). (*Id.* at 21.)

Respondent maintains Insurance License No. 306553 with the Kentucky Department of Insurance. (*Id.* at 45-46.)

Respondent's BrokerCheck and IAPD Report do not reflect any customer complaints or regulatory actions other than the Consent Order. (DEC Book at 23, 25-30, 32-44.)

Respondent served as CEO & Chief Compliance Officer for his own registered investment advisory firm, MoneyLife Partners, Inc. ("MLP") from September 2017 through February 2024. (*Id.* at 35, 129.) Respondent provided financial planning services to substantially all his clients at MLP. (*Id.* at 105.)

Respondent is currently associated with a brokerage firm as an investment advisor representative and has been associated with that firm since February 29, 2024. (*Id.* at 23.)

## **B. Respondent's Consent Order**

Respondent's Consent Order with the Kentucky DFI describes compliance exams—the most recent in September 2021—in which the regulator observed multiple continuing violations by MLP. These violations, which had been identified in 2018 and again in 2020, included deficiencies in the firm's financial statements and monthly computations of assets under management, and its inability to produce written retainer agreements with some of its clients. (*Id.* at 81-95.)

During the September 2021 exam, Kentucky DFI requested that Respondent clarify and revise language in his Form U4 describing Respondent's outside business activities (*id.* at 111), but Respondent failed to timely file an amended Form U4 in response to that request. (*Id.* at 84.)

Kentucky DFI found that MLP had charged a client a 1% annual management fee during a seventeen-month period when that client's investments were held solely in cash. (*Id.* at 89.) Respondent collected \$800 in fees associated with the account during that time. (DEC Book at 174.) The Consent Order describes this fee as "unreasonable" (*id.* at 84) and states that Respondent breached his fiduciary duty to that client by charging the fee. (*Id.* at 89.)

Kentucky DFI found that MLP had maintained a YouTube channel with four publicly available videos showing Respondent speaking to current or prospective advisory clients on behalf of MLP. The "About" section of that YouTube channel contained statements constituting an impermissible guarantee of results and promising "no contracts." (*Id.* at 84, 89.) Respondent failed to disclose the existence of MLP's YouTube channel on his form ADV. (*Id.* at 89.)

The Consent Order describes Respondent's violation of multiple provisions of Kentucky's securities laws and regulations. (*Id.* at 81-95.) Respondent agreed to correct all deficiencies cited in the Consent Order by May 31, 2023, and paid a fine of \$7,400.00. (*Id.* at 90-93.) Respondent

IN THE MATTER OF MICHAEL H. GROSS  
CFP Board Case No. 2023-64689  
May 9, 2025

hired a compliance consultant to assist him in correcting these deficiencies and on September 21, 2023, Kentucky DFI verified via email that “all corrective actions [had] been satisfied” and stated that nothing further was needed from Respondent. (*Id.* at 96-97, 99-100.)

In June 2023, Respondent reported the Consent Order to CFP Board. (DEC Book at 55.)

In February of 2024, Respondent began to wind down MLP’s business. He has since transitioned to an investment advisor role at a brokerage firm. As of July 2024, Respondent’s firm handles all of his back office and compliance functions. (*Id.* at 107.)

### **C. Respondent’s Testimony**

Respondent did not agree with all of the Kentucky DFI’s findings (Tr. at 18) but appears to have worked diligently to correct the deficiencies identified in the 2021 examination. Respondent testified credibly about his efforts to do so. (*See, e.g.*, Tr. at 55; *see also* Tr. at 54, 18.) He described how he worked closely with Kentucky examiners during their review.

To their credit, the Kentucky department was very generous in offering, you know, guidance. While they can't tell me what to say, they could advise on whether or not what I was suggesting would be compliant. . . . [T]hey have checklists and it's more like a calendar. . . of compliance activities that every week or so you go in and check off to see that these things are being done. Some of them are, you know, as simple as trade reviews and blotter reviews and accounts. So some of them are, you know, quarterly and annual. Some of them are monthly even. So I was responsible for all of that and keeping up with those. And then there were several, I think a couple times a year we would do a thorough review where we'd have conference calls and go over changes, especially around ADV update time. They were -- I think the documents were constantly in the improvement phase.

(Tr. at 52.)

Respondent also took “one hundred percent responsibility” for MLP’s compliance deficiencies, stating that “the buck stops with me.” (Tr. at 51.)

Ultimately, Respondent concluded that he would associate with a larger firm so that he could focus on client service and have support for his back-office functions.

And it was probably . . . around 2022 that I had decided that I needed to either hire a lot more people or simply become an IAR again with a bigger firm. I understand that these elements are necessary. I understand the purpose of all the rules and regs, but I needed to free up more time to spend with clients and to serve them well.”

(Tr. at 53)

IN THE MATTER OF MICHAEL H. GROSS  
CFP Board Case No. 2023-64689  
May 9, 2025

### 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.1. of the *Code and Standards* states that at all times when providing financial advice to a client a CFP® professional must act as a fiduciary, and therefore, act in the best interest of the client.

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

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, (c) other regulatory authority, or (d) court of civil jurisdiction 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").

The Kentucky DFI is a State governmental agency. The Consent Order is a record of Professional Discipline by the Kentucky DFI, and Respondent is the subject of that record. Therefore, the 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 of Respondent.

The Consent Order conclusively proves that Respondent breached his duty of loyalty when he charged his client an unreasonable 1% annual fee to hold funds in a cash account. Respondent failed to place the interests of the client above his own interest in earning a fee.

Therefore, there are grounds to sanction Respondent for a violation of Standard A.1. of the *Code and Standards*.

#### *Second Grounds For Sanction*

Standard A.2.b. of the *Code and Standards*, states that "a CFP® professional may not, directly or indirectly, in the conduct of Professional Services i) employ any device, scheme or artifice to

IN THE MATTER OF MICHAEL H. GROSS  
CFP Board Case No. 2023-64689  
May 9, 2025

defraud; ii) make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or iii) engage in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.

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

Under Article 7.2 of the *Procedural Rules*, the Consent Order conclusively establishes that Respondent made an untrue statement of material fact, including impermissible guarantees to clients and potential clients, through postings on his YouTube channel. Respondent also failed to timely file a corrected Form ADV disclosing the existence of its YouTube channel.

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

#### *Third 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 this violation.

Under Article 7.2 of the *Procedural Rules*, the Consent Order is conclusive proof that Respondent failed to comply with Kentucky's laws and regulations by (i) breaching his fiduciary duty, (ii) charging an unreasonable fee to a client, (iii) failing to maintain proper books and records, (iv) making impermissible guarantees to clients and/or potential clients, (v) failing to maintain advisory contracts for each client, and (vi) failing to maintain an accurate Form U4 and Form ADV.

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

#### **IV. THE COMMISSION'S DECISION**

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

Conduct 5: Breach of Fiduciary Duty (Suspension for at Least One Year and One Day)

Conduct 14.b: Failure to Disclose Required Information to Client (Public Censure)

Conduct 20.d: Misrepresentation to Clients and Prospective Clients (Public Censure)

Conduct 2: Books and Records Violation (Private Censure)

IN THE MATTER OF MICHAEL H. GROSS  
CFP Board Case No. 2023-64689  
May 9, 2025

The Commission cites the following factors as mitigating:

1. Respondent has exhibited exemplary conduct since the violations.
2. No clients were harmed, and Respondent has had no client complaints during his long career in financial services.
3. Respondent accepted unqualified responsibility for MLP's compliance failures.
4. Respondent, recognizing his difficulty managing MLP, has associated with an established firm and now has assistance with compliance and back-office requirements.

The Commission cites the following factors as aggravating:

1. Respondent engaged in a three-year pattern of misconduct.
2. Respondent failed to correct deficiencies found in two prior exams.
3. Respondent expressed disagreement with some of the findings of the Consent Order.

In consideration of the violations found, and the aggravating and mitigating factors, the Commission issues this Order imposing on Respondent a **Suspension of Three Months**.

Ordered by:

Disciplinary and Ethics Commission  
CFP Board