

**DISCIPLINARY AND ETHICS COMMISSION
CERTIFIED FINANCIAL PLANNER BOARD OF STANDARDS, INC.
WASHINGTON D.C.**

IN the Matter of

Andre Krause, CFP[®],

Respondent.

CFP Board Case No. 2024-65718

July 10, 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 on January 28, 2010, and he has been certified since that date. (DEC Book at 5.)¹

On September 11, 2024, Enforcement Counsel filed a Complaint with CFP Board’s Disciplinary and Ethics Commission (“Commission”) alleging grounds to sanction Respondent for violating Standard A.8.a of the *Code of Ethics and Standards of Conduct* (“Code and Standards.”) (*Id.* at 4-7.) The Complaint cites a March 19, 2024 Letter of Acceptance Waiver and Consent (“AWC”) that Respondent entered with the Financial Industry Regulatory Authority, Inc. (“FINRA”), in which he agreed to a two-month suspension and a \$10,000 fine based on findings that he violated FINRA rules by mismarking order tickets, causing his firm to maintain inaccurate books and records. (*Id.*)

In his Answer to the Complaint, Respondent admitted to its material allegations. (*Id.* at 173-175.)

On April 24, 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 Andre Krause, CFP[®], April 24, 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.

¹ The DEC Book and any exhibits to this Order will not be published under Article 17.7 of the *Procedural Rules*.

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II. FINDINGS OF FACT

A. Background

Respondent has passed the: (a) Series 7 – General Securities Representative Examination (2000); (b) Series 63 – Uniform Securities Agent State Law Examination (2000); (c) Series 24 – General Securities Principal Exam (2016); and (d) SIE – Securities Industry Essentials Examination (2018). (DEC Book at 17.)

Respondent’s BrokerCheck and IAPD Report do not reflect any customer complaints or regulatory actions other than the FINRA AWC. (*Id.* at 23-27, 37-40.)

During the relevant time, Respondent was associated with a broker-dealer and its affiliated registered investment advisor. (*Id.* at 16-17, 31.)

B. Respondent’s AWC

In the AWC, Respondent consented to the following findings, without admitting or denying them:

FINRA Rule 4511 requires FINRA members to make and preserve books and records in conformity with Exchange Act Section 17(a) and Rule 17a-3 thereunder. Exchange Act Rule 17a-3 requires member firms, among other things, to make and keep a record of “each brokerage order” showing “the terms and conditions of the order,” including “whether the order was solicited or unsolicited.” Inherent in the obligation to make and preserve books and records is the requirement that they be accurate. A registered representative who causes his or her firm to fail to comply with these record-keeping obligations violates FINRA Rule 4511. A violation of FINRA Rule 4511 is also a violation of FINRA Rule 2010, which requires associated persons to “observe high standards of commercial honor and just and equitable principles of trade” in the conduct of their business. [Respondent’s firm’s] written supervisory procedures required its registered representatives to accurately record whether a transaction was solicited or unsolicited. Between September 2020 and August 2021, [Respondent] mismarked 1,555 order tickets as unsolicited when he had solicited the trades. [Respondent’s] mismarking of these order tickets caused [his firm] to make and preserve inaccurate books and records with respect to these trades in violation of Section 17(a) of the Exchange Act and Rule 17a-3 thereunder. Therefore, [Respondent] violated FINRA Rules 4511 and 2010.

(*Id.* at 55.)

Respondent also consented to the imposition of a two-month suspension from associating with any FINRA member in all capacities and a \$10,000 fine. (*Id.*)

Respondent disclosed the FINRA investigation and his decision to accept the AWC to CFP Board. (*Id.* at 42, 48.) In one disclosure he stated as follows:

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During firm audit FINRA investigated trades during the 2021 year that were marked incorrectly. Due to guidance from my broker dealer many years ago I was told to mark Fee account trades as solicited and Commission account trades as unsolicited. Based on this guidance I set trading software defaults to reflect this. FINRA believes that in doing so, many of my trades caused my member firm employer to make and preserve inaccurate books and records and violated FINRA Rule 4511.

(*Id.* at 42.)

C. The Parties' Hearing Presentations

Respondent testified that his firm was a family business headed by his father, which he joined in approximately 2005. (Tr. at 16, 34-35.) Respondent testified that around the time his father retired from the securities industry, seven to ten years ago, someone from the firm's compliance department advised him that trades in fee-based accounts should be marked as solicited, and trades in commission-based accounts should be marked unsolicited; he said he changed the default settings in his trading software accordingly. (*Id.* at 15-16; 34-36.) Respondent testified that because of high turnover among the firm's compliance staff, he could not remember who gave him that direction. (*Id.* at 16.)

PANEL MEMBER: I think it was Compliance that came to you and said, mark them unsolicited if commission. It seems like in the past you weren't doing that. What kind of conversation did you have with them when they told you that, if any?

MR. KRAUSE: I don't recall. It was during one of the annual compliance meeting[s]. It was shortly after, I believe, I passed the 24. And it was, again, just a general that -- the fee-based accounts should be marked as solicited, and the non-fee-based should be unsolicited. So that's it. It was more of a general this is the way things should be.

PANEL MEMEBER: Did that make sense to you?

MR. KRAUSE: . . . At the time, I didn't really think about it. It was me passing the 24 and covering an advisor, too. And for me, it was a general direction, I think, more than anything else. I don't know what else to say in regards to it.

(*Id.* at 32-33.)

Respondent attributed the substantial number of mismarked orders (1,555) to his customers' attempts to anticipate and then to adjust for the effects of the COVID pandemic on the securities markets. It was, he testified, "an exceptional time;" his customers' trading activities in prior and subsequent years were much lower. (*Id.* at 16-17.)

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Enforcement Counsel noted that mismarking orders as unsolicited would “in many firms operate to eliminate or limit supervisory review . . . for suitability issues” (Tr. at 22) and that “[i]n a very general sense . . . mismarking trades can conceal other kinds of misconduct.” But Enforcement Counsel found “no evidence in this case of anything like that.” (*Id.* at 26.)

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 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.

FINRA is a self-regulatory authority. 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 conclusively proves that Respondent violated FINRA Rules 4511 and 2010, which are laws, rules and regulations regarding Professional Services, when he mismarked 1,555 trades as unsolicited when he had solicited them.

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

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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 2: Books and Records Violation (Private Censure)

Conduct 30: Securities Law Violation (Public Censure)

Conduct 33: Professional Discipline as Defined in Article 7.2 Involving a Suspension for More than One Calendar Month (30 Days) and less than Three Calendar Months (90 Days) (Suspension for at least an equal length, up to one year)

The Commission found no aggravating factors. The Commission found the following factors to be mitigating:

1. Respondent was not attempting to deceive his firm or clients or to evade appropriate oversight.
2. Respondent relied on advice from his firm's compliance department.
3. There is no evidence that any client was harmed by Respondent's misconduct.
4. Respondent has had no client complaints in over twenty years in the financial services industry.

The Commission has also consulted Case Histories² for persuasive non-binding precedent. Case Histories suggest that a suspension at least equal to Respondent's FINRA suspension is appropriate. *See* ACH 29351 (citing Conduct 33 and imposing parallel three-month suspension on respondent for mismarking 966 trades over more than three years in a case with less compelling mitigating circumstances and in which respondent had prior disciplinary history.) In this matter Respondent's FINRA suspension was for two months; however, the Commission found that the mitigating factors warrant a downward departure from the baseline sanction set by Conduct 33.³

² Case Histories (referred to as "ACHs" or "CHs") are available on CFP Board's website at <https://www.cfp.net/ethics/enforcement/case-history>

³ The Commission also considered that Article 11.1.a.5 of the *Procedural Rules* does not authorize a suspension of fewer than 90 days, which the Commission determined would be too severe a sanction in this case.

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In consideration of the violation found, the absence of aggravating factors and significant mitigating factors, the Commission issues this Order imposing a **Public Censure** on Respondent.

SO ORDERED

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CFP Board