

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

_____ :
In the Matter of :

Michael Neill, CFP® :
_____ :

CONSENT ORDER

No. 2023-65021

Certified Financial Planner Board of Standards, Inc. (“CFP Board”) and Michael Neill, CFP® (“Respondent”) agree that Respondent has violated CFP Board’s *Rules of Conduct* and the *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

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

a. Background Information

- i. Respondent became a CFP® professional on September 30, 2011, and has been certified since that date.
- ii. Respondent has passed the (a) Series 7 – General Securities Representative Examination (2003); (b) Series 66 – Uniform Combined State Law Examination (2003); and (c) SIE – Securities Industry Essentials Examination (2018).
- iii. Respondent is currently associated with Broker as a broker and has been associated with that firm since April 30, 2021.
- iv. Respondent is currently associated with Investment Advisor as an investment advisor representative and has been associated with that firm since May 7, 2021.

b. Respondent’s Termination from Firm A

- i. On April 21, 2021, Respondent was discharged from Firm A after allegations that he submitted transactions under production numbers that were inconsistent with agreements with another representative resulting in a shortfall of revenue credited to the other representative.

c. FINRA Finds that Respondent Caused his Firm’s Books and Records to be False

- i. In approximately March 2013, Respondent entered into an agreement 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 estate of a retired representative. The agreement set forth what percentages of the commissions the estate of the retired representative and Respondent would earn on trades placed using the joint representative code.
- ii. From January 2014 through March 2018, Respondent placed a total of 219 trades in accounts that were covered by the agreement using his own personal representative code. Although the firm’s system correctly prepopulated the trades with the applicable joint representative code, Respondent changed the code for the 219 trades to his personal representative code. Respondent did so because he mistakenly believed that his agreement with the estate of the retired representative did not apply to new assets added to accounts subject to the agreement and that he therefore was authorized to enter the 219 trades using his personal representative code. The firm’s trade confirmations for the 219 trades inaccurately reflected Respondent’s personal representative code.
- iii. Respondent’s actions resulted in his receipt of higher commissions from the 219 trades than what he was entitled to receive pursuant to the agreement. In August 2022, Firm A reimbursed the estate of the retired representative.

iv. On April 24, 2023, Respondent signed a proposed Letter of Acceptance, Waiver and Consent (“AWC”) with FINRA, in which he consented to findings that he caused Firm A to maintain inaccurate books and records, in violation of FINRA Rules 4511 and 2010. The AWC became final on May 9, 2023.

v. Respondent consented to the following sanctions:

1. A one-month suspension from associating with any FINRA member in all capacities; and
2. A \$5,000 fine.

d. *Delaware Finds that Respondent Failed to Timely Report the FINRA AWC*

i. Title 18 Del. C. Subsection 1719 requires that any administrative action taken against a producer must be reported to the Delaware Insurance Commissioner within thirty (30) days of the final disposition of the action or by June 8, 2023.

ii. On September 8, 2023, Respondent entered into a Stipulation and Consent Agreement with the Delaware Insurance Commissioner, in which he consented to findings that he unintentionally violated Title 18 of the Delaware Code. Additionally, Respondent consented to cease and desist from future violations and pay a \$500 fine.¹

e. *Failure to Disclose Both Actions to CFP Board*

i. Respondent failed to disclose his FINRA AWC dated May 9, 2023, to CFP Board within 30 days.

ii. On June 14, 2023, Enforcement sent Respondent a Notice of Investigation and Request for Information related to that AWC.

iii. Respondent also failed to disclose his September 8, 2023, Stipulation and Consent Agreement with the Delaware Insurance Commission.

B. GROUND FOR SANCTION

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

a. *First Ground for Sanction*

i. 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.

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

iii. 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 an (“AWC”).

iv. 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. 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

¹ The Enforcement Department was unable to get a signed copy of the Stipulation and Consent Agreement with the Delaware Insurance Commissioner, but Respondent’s Counsel indicated that this was the Agreement that was executed.

for such Professional Discipline of Respondent.

v. FINRA specifically found that Respondent caused Firm A to maintain inaccurate books and records, in violation of FINRA Rules 4511 and 2010.

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

b. Second Ground for Sanction

i. There are grounds to sanction Respondent for a violation of Standard A.8.a. of the *Code and Standards*, which provides that a CFP® professional must comply with the laws, rules, and regulations governing Professional Services.

ii. 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”).

iii. The Delaware Insurance Commissioner is a state governmental agency. The Stipulation and Consent Agreement is a record of Professional Discipline by Delaware, and Respondent is the subject of that record. Therefore, the Stipulation and Consent Agreement 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.

iv. The September 2023 Delaware Stipulation and Consent Agreement is conclusive proof that Respondent failed to comply with Title 18 of the Delaware Code, which is a regulatory requirement governing professional services provided to the clients.

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

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

vii. 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.

c. Third Ground for Sanction

i. There are grounds to sanction Respondent for a violation of Standard E.3.c. of the *Code and Standards*, which provides that a CFP® professional must provide written notice to CFP Board within thirty (30) calendar days after the CFP® professional, or an entity over which the CFP® professional was a Control Person, has had conduct mentioned adversely in a Finding in a Regulatory Action involving failure to comply with the laws, rules, or regulations governing Professional Services (except a Regulatory Action involving a Minor Rule Violation in a Regulatory Action brought by a self-regulatory organization).

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

iii. Respondent did not disclose his April 2023 FINRA AWC to CFP Board within 30 days.

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

C. MITIGATING AND AGGRAVATING FACTORS

1. The following are mitigating factors relevant to this Consent Order:
 - a. The Stipulation and Consent Agreement with the Delaware Insurance Commissioner states that Respondent's failure to report his FINRA AWC was unintentional.
2. The following are aggravating factors relevant to this Consent Order:
 - a. Respondent failed to disclose his FINRA AWC to both CFP Board and the Delaware Insurance Commissioner.

D. SANCTION

1. CFP Board imposes the following sanction(s) on Respondent: **Public Censure**

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 CENSURE, A PUBLIC SANCTION, IN ACCORDANCE WITH ARTICLE 17.7 OF THE PROCEDURAL RULES.**

F. REQUIRED ACTIONS AFTER SANCTION

1. **Required Action After Public Censure.** 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 Public Censure 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 Public Censure 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. **Default for Failure to Take Required Action After Public Censure.** 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*.

G. PAYMENT OF DEC REVIEW FEE

1. Respondent agrees to pay the DEC Review Fee as reflected in invoice no. 3455462 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. 3455462.

- 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. 3455462 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. 3455462 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. 3455462, 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: 04/21/2024

By: 
Michael Neill, CFP®

CFP Board

Date: August 27, 2024

By: /s/ Darby Armont, Chair
Disciplinary and Ethics Commission