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# Professional Responsibility Applied! 2019

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CE-credits.ca



# Disclaimer

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**The views and opinions expressed in this presentation are those of the presenter / content author and do not necessarily reflect the views of Financial Planning Standards Council (FPSC).**

# Our Purpose Today!

**This Presentation is NOT about reviewing the Rules and Standards of the Financial Planning Industry!**



**This Presentation is about your Professional Responsibility as a Financial Planner.**

**We will DISCUSS a number of Case Studies and Ethical Dilemmas to see what you think.**



# Agenda



**FPSC Code of Ethics – New Principal**



**FPSC Rules of Conduct – Big Changes**



**FPSC Fitness Standards**



**FPSC Financial Planning Practice Standards**



# Why is this Necessary?



# Chuck Gallagher

- **Chuck Gallagher: Entrepreneur & Author**
- **Motivational & Keynote Speaker**
- **1979 Graduated Appalachian State U., MS Accounting**
  - **1983: Partner in a U.S. CPA Accounting Firm**
  - **1996: Began New Career – Selling Cemetery Plots**
    - **2009: COO – American Funeral Financial**
    - **2010 Published - Second Chances: Transforming Adversity Into Opportunity ([chuckgallagher.com](http://chuckgallagher.com))**





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# Chuck Gallagher

**1995**

**Prisoner  
#11642058**

**Today**

**Ethics Guru**





# NEW! FPSC Code of Ethics



- **Principle 1: Duty of Loyalty**
- **Principle 2: Integrity**
- **Principle 3: Objectivity**
- **Principle 4: Competence**
- **Principle 5: Fairness**
- **Principle 6: Confidentiality**
- **Principle 7: Diligence**
- **Principle 8: Professionalism**



# Duty of Loyalty Defined

## What is the difference between Client First, and Duty of Loyalty?

2019	2018
Duty of Loyalty	Client First
Integrity	Integrity
Objectivity	Objectivity
Competence	Competence
Fairness	Fairness
Confidentiality	Confidentiality
Diligence	Diligence
Professionalism	Professionalism

- The duty to act in the clients best interest by placing the client's interest ahead of their own and all other interests
- The obligation to disclose conflicts of interest and to mitigate conflicts in the client's favour
- The duty to act with the care, skill and diligence of a prudent professional

# Case Study 1

2019

Duty of Loyalty

Integrity

Objectivity

Competence

Fairness

Confidentiality

Diligence

Professionalism

**You are working on the Insurance portion of the overall Financial Plan for your clients. Which of the Principles may be breached while...**

**1. Recommending Life Insurance vs Living Benefits  
Duty of Loyalty & Objectivity**

**2. Insuring 1 family member vs ALL family members  
Duty of Loyalty, Integrity, Confidentiality, & Professionalism**

# Case Study 2

2019

Duty of Loyalty

Integrity

Objectivity

Competence

Fairness

Confidentiality

Diligence

Professionalism

**You are working on the Investment portion of the overall Financial Plan for your clients.**

**Which of the Principles may be breached while...**

**1. Option: Seg Fund vs Mutual Fund vs ETF**

**Duty of Loyalty, Competence & Objectivity**

**2. Front Load vs DSC**

**Duty of Loyalty, Professionalism & Integrity**



# NEW! FPSC Rules of Conduct

## Application of the Rules

- Reflect the standards of conduct that Certificants must demand of themselves and of their peers.
- Anticipate a broad spectrum of financial planning practices and govern a Certificants conduct, regardless of the nature of any specific engagement and/or the structure of the Certificants practice.
- **NEW! 35** Rules of Conduct





# FPSC Rules of Conduct

## A Certificant...

### General

1. Shall not engage in or associate with individuals engaged in conduct involving dishonesty, fraud, deceit or misrepresentation, or knowingly make a false or misleading statement
2. Shall not engage in any conduct that reflects adversely on his or her integrity or fitness as a Certificant, the certification marks or the profession

# FPSC Rules of Conduct

**A Certificant...**

**Discretionary Authority – Professional Obligations to the Client**

**6. Holding the funds and/or the property of a client has the following responsibilities:**

- a. Shall do so with the care required of a fiduciary;**
- b. Shall act only in accordance with the authority set forth in the governing legal instrument;**
- c. Shall identify and keep complete records of all funds or**



# Case Study 3

What professional titles does this set of rules apply to?

6. Holding the funds and/or the property of a client has the following

a. Shall

c. Shall

other

e. Shall

a Ce

f. Shall

fund

exce



ary;

all funds or

property with

ant's firm;

e employ

er purpose,

nt.

Portfolio Managers, or any individual with Discretionary Authority



# FPSC Rules of Conduct

## A Certificant...

7. Shall disclose the following information in writing to the client, with the exception of subsection (b) below
  - a. An accurate and understandable description of the known costs of the services and products, to the client.
  - b. When services include financial planning or elements of the financial planning process, an accurate and understandable description of how the Certificant, the Certificant's firm are compensated;





# Case Study 4

What document does this rule govern?

7. Shall disclose the following information in writing to the client
  - a. An accurate and understandable description of the **known costs of the services and products, to the client.**
  - c. When services include financial planning or elements of the financial planning process, an accurate and understandable description of how the Certificant, the Certificant's firm are compensated;
  - e. The specific financial planning services the Certificant will perform for the client



# FPSC Rules of Conduct

## **A Certificant...**

- 8. When services include financial planning or material elements of the financial planning process:**
  - a. Shall not provide services to a client where there is an existing conflict of interest between the Certificant and the client, unless, after full written disclosure, the client makes the informed decision to engage the Certificant in writing.**
  - b. Where a conflict of interest arises during the course of an ongoing relationship, a Certificant immediately**

# FPSC Rules of Conduct

**A Certificant...**

**Client Relations**

**11. Shall comply with the established terms of engagement (oral or written)**

**12. Shall take all reasonable steps to ensure that the client is informed of any material changes in circumstances that arise subsequent to the original engagement:**

- a. Conflicts of interest;**
- b. The Certificant's business affiliation;**
- c. Compensation structures affecting the professional**





# Case Study 5

**Describe a situation where this Rule might apply?**

**23. Shall implement only those strategies that are both prudent and appropriate for the client, which strategies the CFP professional reasonably believes will not materially and negatively impact the clients best interest.**

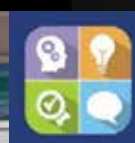




# Case Study 5

**How would you fire a client? Step by step.**





# FPSC Rules of Conduct

**A Certificant...**

**Withdrawal of Services**

- 14. Where a Certificant determines that they no longer wish to act for a client, they shall ensure that the client receives timely written notice of the Certificant's intent and shall make sure the withdrawal of advice will not prejudice the client**
- 15. Leaves a firm/employer and that departure has the effect of ending a client relationship, the Certificant shall either:**
  - Directly notify the client of the change in relationship**

# FPSC Rules of Conduct

**A Certificant...**

**Client Property**

**17. Shall promptly return the client's original records upon request.**

**Professional Oversight and Supervision of Others**

**18. Shall provide reasonable and prudent professional supervision of any subordinate or third party to whom work for any client services is assigned, or whose work is subject to review.**



# FPSC Rules of Conduct

**A Certificant...**

**Duties to Prospective Clients**

- 19. Shall not adopt any method of obtaining or retaining clients that lowers the standard of dignity of the profession:**
  - a. Shall not make a false or misleading communication about the size, scope or areas of competence;**
  - b. Shall not make false or misleading communications to the public or create unverifiable expectations regarding**

# FPSC Rules of Conduct

**A Certificant...**

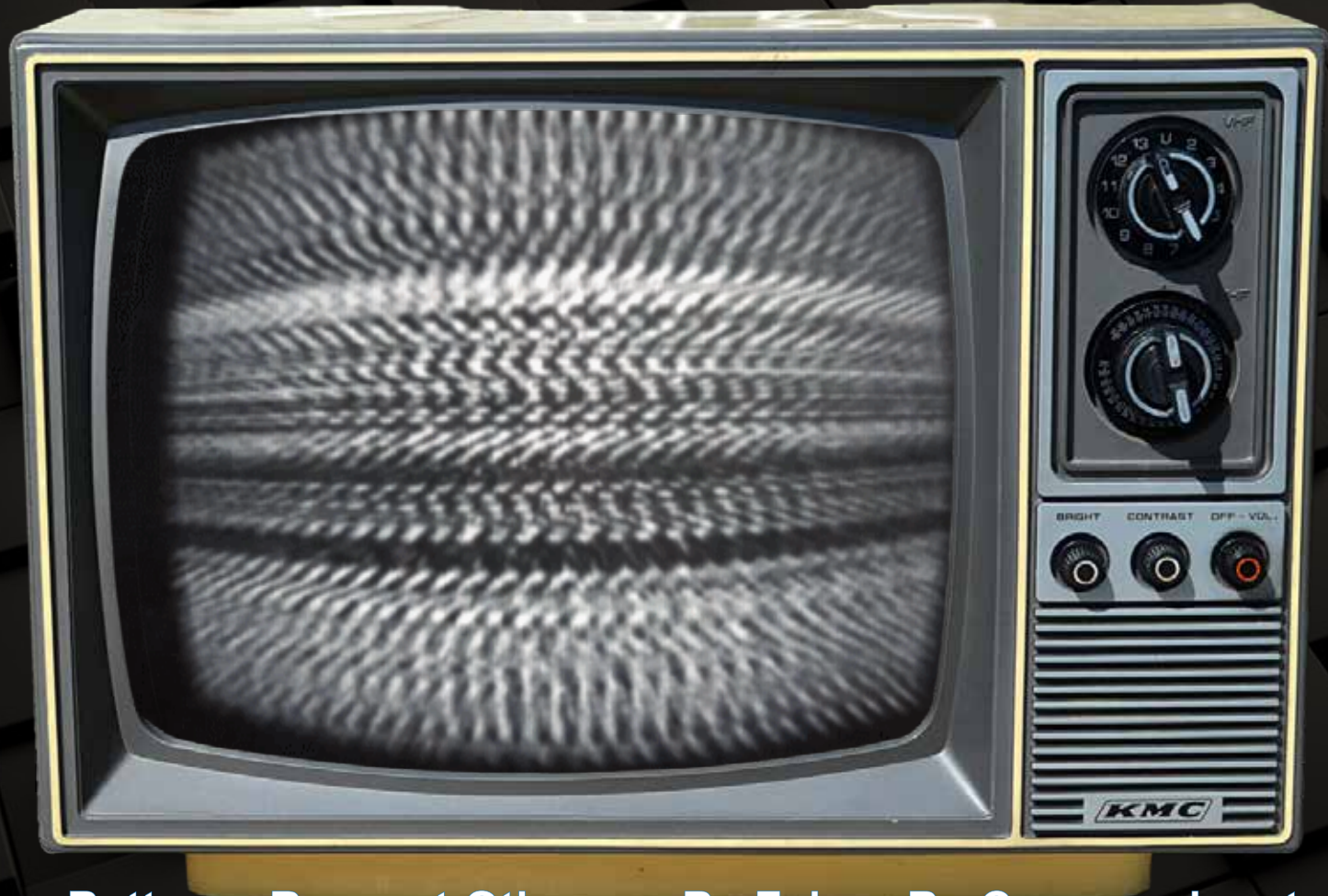
**Financial Planning Services**

- 21. Shall always exercise reasonable and prudent professional judgment.**
- 22. Shall make only those recommendations that are both prudent and appropriate for the client.**
- 23. Shall implement only those strategies that are both prudent and appropriate for the client, which strategies the Certificant reasonably believes will not materially and**

# Case Study 6

**CNNMoney**

**Business Ethics**  
**(2:48)**



**5 Basic Principles**

**Do No Harm - Make Things Better - Respect Others - Be Fair - Be Compassionate**



# Case Study 6

**What were the 3 Rules breached in the video?**



- 4. Shall promptly inform FPSC, if they have knowledge that another Certificant has committed an egregious violation that raises substantial questions.**
- 28. Shall not disclose or use any personal or confidential client information without written informed consent of the client, unless in response to proper legal or regulatory process.**
- 30. Shall not disclose a client's name to any other party without informed consent of the client, unless compelled by Law or regulatory process.**

# FPSC Rules of Conduct

**A Certificant...**

**Duty of Confidentiality**

- 28. Shall not disclose or use any personal or confidential information pertaining to a prospective client, client, or former client without written informed consent of the client, unless in response to proper legal or regulatory process.**
- 29. Shall take prudent steps to protect the security of information and property, whether physically or electronically.**



# FPSC Rules of Conduct

**A Certificant...**

**Relationship to FPSC**

**31. Shall meet all FPSC requirements for continued certification, including:**

- a) Making full and accurate Legal Declarations when completing their Annual Renewal Form, including all reportable items**
- b) Advising FPSC, in writing, of any changes to prior “Legal Declarations” within 15 days**



# Case Study 7

## What are the annual CE Requirements for Certificants?

	CFP Professionals	FPSC Level 1 Certificants
Verifiable Credits Required (January 1 to December 31)		
BREAKDOWN BY CATEGORY:		

What is the error on this chart?

# FPSC Fitness Standards

## Bars to Certification – **New applicants, Renewal or Reinstate**

- Currently in personal bankruptcy proceedings;
- Business bankruptcy filed within the last five years;
- Revocation or suspension of one (1) year or longer, of a professional license or credential (e.g., real estate, lawyer, accountant) by the licensing / credentialing body, unless the suspension / revocation is administrative in nature;



# Case Study 8

**Describe a reason where these conditions may NOT Bar a person from being Certified as a CFP Professional?**



- **Currently in personal bankruptcy proceedings;**
- **Business bankruptcy filed within the last five years;**



# FPSC Practice Standards

**The Practice Standards outline the process that must be followed in any client engagement where financial planning services are being offered, not just when delivering a comprehensive financial plan.**



- 1. Explain the Role of the Financial Planner and Value of the Financial Planning Process**
- 2. Define the Terms of the Engagement**
- 3. Identify the Client's Goals, Needs and Priorities**

# Case Study 9

**What stage of the Financial Planning process should Practice Standards apply?**

- **Converting Prospect to Client**
- **Building and Implementing Financial Plan**
- **Annual Review 5 years after implementation**
- **Conversion from savings to income**
- **Settling the Estate**





# Was This Really Necessary?

Aug 13, 2018  
I.I.J.



Toronto financial advisor  
fined \$150,000

Feb 13, 2019  
I.I.J.



Former Ottawa advisor  
banned and fined \$400,000

Nov 22, 2018  
Wealth Professional  
Canada



Former advisor fined  
\$140,000, banned for life

Oct 10, 2018  
I.I.J.



Toronto investment advisor  
fined \$60,000

Dec 20, 2017  
CBC News



Thunder Bay investment  
advisor fined \$500,000,  
banned from industry

May 28, 2018  
MFDA



Thunder Bay investment  
advisor fined \$75,000  
Sanctions were imposed  
for misconduct





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# Thank You!

