



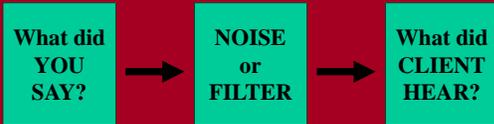
Baystate Financial Planning

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COMMUNICATIONS

What did your client really hear?

COMMUNICATION



What did the client want to hear?

MY NAME IS FINK

... and what do you think

I'll press your pants for nothing

MY NAME IS FINK

... and what do you think

I'll press your pants for nothing

AMERICAN SOLDIER
WALKS INTO A GERMAN BAR

AND ORDERS,

DRY MARTINI

... and what does he get?

THREE MARTINIS

EINS, ZWEI, **DREI**, VIER

PRESCRIPTION
TAKE ONCE EVERY DAY

How many did	How many did
JOE	JOSÉ
Take?	Take?
1	11
one	uno, dos, tres, cuatro cinco, seis, siete, ocho nueve, diez, once , doce

GRANDMOTHER
MOVED TO FLORIDA

Would not return to Rhode Island.
Not even to see her grandchildren.

WHY?

Because my lawyer told me

“Dying in Rhode Island is more expensive than
dying in Florida.”

What did the lawyer mean?

Estate taxes are higher for Rhode Island residents
(exemption of \$859,350 in 2011, \$892,865 in 2012) vs.
Florida residents (no estate tax)

MY ASSETS ARE IN A TRUST

So, nothing is in my estate.

WHICH ESTATE?

PROBATE ESTATE?

MEDICAID ESTATE?

TAXABLE ESTATE?

ETHICS is R I S K Management

R = Responsibility

You own the outcome. No excuses.

Don't give them. Don't accept them.

I = Integrity

Do the right thing. Be honest with yourself and your client.

S = Suitability

Do what is best for the client. Always put your client's interests ahead of yours.

K = Knowledge

Know your client. Continuing education



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ETHICAL CONDUCT

prepared for

CFP® Professionals

 CERTIFIED FINANCIAL PLANNER® | CFP®
Certified Financial Planner Board of Standards, Inc. (CFP Board) certification is awarded to individuals who successfully complete CFP Board's initial and ongoing certification requirements.

9



CERTIFIED FINANCIAL PLANNER™

CFP®

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Herbert K. Daroff, J.D., CFP® Your Instructor

- My CFP® certification is current
- My continuing education requirements are up-to-date
- All of my renewal requirement requirements and fees are paid-in-full
- I have held my CFP® certification for more than 5-years
- I am not the subject of any pending investigation by CFP Board
- I am not the subject of any pending investigation by any federal or state regulator
- I have not been the subject of any CFP Board discipline

Learning Objectives

- | | |
|---|-------------------------------|
| 1. Demonstrate an understanding of, and be able to define financial planning, the financial planning process, and financial planning subject areas. | SLIDES
10-18 |
| 2. Describe the material elements of financial planning. | 19 |
| 3. Determine if a CFP® professional is providing financial planning or material elements of financial planning. | 19 |
| 4. Demonstrate an understanding of the required elements of a written agreement when financial planning services are provided. | 20 |
| 5. Articulate disclosure requirements and apply disclosure requirements to their practices. | 8,9,20 |
| 6. Define and outline elements of the fiduciary standard and know when it applies. | 9
<small>12</small> |

Ethical Conduct

**For CPAs -- AICPA and NASBA
For CFP® Professionals
For Life Insurance Agents/Brokers**

13

CFP Board -- Three Ps

- **Public**
- **Practice**
- **Practitioner**

14

CFP Board -- Five Es

- **Education**
- **Exam**
- **Experience**
- **Ethics**
- **Enforcement**

15

CFP Board -- What's New?

- Revised Duty of Care
- Definition of Fiduciary
- Definition of Financial Planning
- Definition of Material Elements
- Written Disclosures

16

CFP Board -- What's New?

- Revised Duty of Care
 - Professionals shall at all times place the interest of the client ahead of their own. When Professionals provide financial planning or material elements of the financial planning process, they owe to the client the duty of care of a fiduciary.

17

CFP Board -- What's New?

- Definition of Fiduciary
 - One who acts in utmost good faith, in a manner they reasonably believe to be in the best interest of the client
 - Recommend what you reasonably believe to be the best possible options available to the client within the business and regulatory setting in which you practice
 - Disclose limitations placed on the certificant by those business or regulatory requirements

18

CFP Board -- What's New?

- **Definition of Financial Planning**

- Process of determining whether and how an individual can meet life goals through the proper management of financial resources.

- Integrating the financial planning process with the financial planning subject areas

19

HKD: (not CFP Board) “Financial Plan”

- **No adjective needed**

- Not “total” or “life” and certainly

- Not COMPREHENSIVE**

- What happens if you didn't cover any aspect of the client's current or future financial affairs?
- Do you ask every neighbor, friend, and relative if they named your client as guardian for their children?
- Do you gather all of their homeowners and vehicle policies?

20

CFP Board -- Six Step Financial Planning Process

- Mutually defined scope of the engagement
- Gathering sufficient data based on the clients' goals, needs, and priorities
- Analyzing the collected data and Evaluating alternative solutions
- Recommending solutions
- Implementing agreed upon solutions
- Monitoring the implemented solutions

21

Establishing Client Relationship

- Client and Planner **mutually** define the scope of the engagement
- What is to be covered
 - Expectations the Client should have of the Planner
 - Objectivity, Competence, Integrity
 - Expectations the Planner should have of the Client
 - Will provide the needed data
 - Is capable of making decisions

22

Gathering Sufficient Data

- Objective Data
 - Personal financial statement
 - Balance sheet and income statement
 - Copy of existing legal documents
 - Copy of statements for insurance and investments
- Subjective Data
 - Goals, needs, and priorities
 - In the client's own words

23

Evaluating Alternatives

- Analyze the objective and subjective data
 - Request additional data, as needed
 - Amend the engagement, as needed
- Determine appropriate alternative solutions that are consistent with the collected data and the scope of the engagement

24

Making Recommendations

- Prescription without Diagnosis is MALPRACTICE
 - Client received \$250,000 from the sale of her home and planned to use part of the proceeds to pay off the mortgage on her new husband's home.
 - Planner convinced her to invest the \$250,000 instead in a fixed annuity with long surrender charges

25

Implement Agreed upon Solutions

- Coordinate with client's existing team of professional advisors
- Disclose compensation, as appropriate
 - How do you get paid?
 - Fee vs. Commission
 - Hourly fee vs. Project fee
 - Which would you prefer to pay:
 - » \$100/hour to someone who takes 10 hours; or
 - » \$350/hour for an experienced advisor who accomplishes the task in 2 hours

26

Monitor the Plan

- Changes will occur in:
 - Tax law
 - The economy
 - The client's personal circumstances
- Are you a fiduciary?
- Should you act as one, even if not?

27

CFP Board -- What's New?

• Definition of Material Elements

- clients' understanding and intent
- degree to which multiple subject areas are involved
- extent of data gathering
- breadth and depth of recommendations

**ARE YOU PROVIDING
FINANCIAL PLANNING; OR
MATERIAL ELEMENTS**

28

CFP Board -- What's New?

• Written Disclosures

- Compensation arrangement and how compensation is determined (specific dollar amount is NOT required)
 - Offer annually
 - Timely disclosure of material changes

29

Code of Ethics

These *Code Of Ethics'* Principles express the profession's recognition of its responsibilities to the public, to clients, to colleagues and to employers. They apply to all CFP® professionals and provide guidance to them in the performance of their professional services.

- Principle 1 - Integrity
- Principle 2 - Objectivity
- Principle 3 - Competence
- Principle 4 - Fairness
- Principle 5 - Confidentiality
- Principle 6 - Professionalism
- Principle 7 - Diligence

30

Code of Ethics

Principle 1 - Integrity

A CFP® professional shall offer and provide professional services with integrity.

As discussed in "Composition and Scope," CFP® professionals may be placed by clients in positions of trust and confidence. The ultimate source of such public trust is the CFP® professional's personal integrity. In deciding what is right and just, a CFP® professional should rely on his or her integrity as the appropriate touchstone. Integrity demands honesty and candor which must not be subordinated to personal gain and advantage. Within the characteristic of integrity, allowance can be made for innocent error and legitimate difference of opinion; but integrity cannot co-exist with deceit or subordination of one's principles. Integrity requires a CFP® professional to observe not only the letter but also the spirit of this *Code Of Ethics*.

31

Code of Ethics

Principle 2 - Objectivity

A CFP® professional shall be objective in providing professional services to clients.

Objectivity requires intellectual honesty and impartiality. It is an essential quality for any professional. Regardless of the particular service rendered or the capacity in which a CFP® professional functions, a CFP® professional should protect the integrity of his or her work, maintain objectivity, and avoid subordination of his or her judgment that would be in violation of this *Code Of Ethics*.

32

Code of Ethics

Principle 3 - Competence

A CFP® professional shall provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the CFP® professional is engaged.

One is competent only when he or she has attained and maintained an adequate level of knowledge and skill, and applies that knowledge effectively in providing services to clients. Competence also includes the wisdom to recognize the limitations of that knowledge and when consultation or client referral is appropriate. A CFP® professional, by virtue of having earned the CFP® certification, is deemed to be qualified to practice financial planning. However, in addition to assimilating the common body of knowledge required and acquiring the necessary experience for certification, a CFP® professional shall make a continuing commitment to learning and professional improvement.

33

Code of Ethics

Principle 4 - Fairness

A CFP® professional shall perform professional services in a manner that is fair and reasonable to clients, principals, partners and employers, and shall disclose conflict(s) of interest in providing such services.

Fairness requires impartiality, intellectual honesty and disclosure of conflict(s) of interest. It involves a subordination of one's own feelings, prejudices and desires so as to achieve a proper balance of conflicting interests. Fairness is treating others in the same fashion that you would want to be treated and is an essential trait of any professional.

34

Code of Ethics

Principle 5 - Confidentiality

A CFP® professional shall not disclose any confidential client information without the specific consent of the client unless in response to proper legal process, to defend against charges of wrongdoing by the CFP® professional or in connection with a civil dispute between the CFP® professional and client.

A client, by seeking the services of a CFP® professional, may be interested in creating a relationship of personal trust and confidence with the CFP® professional. This type of relationship can only be built upon the understanding that information supplied to the CFP® professional will be confidential. In order to provide the contemplated services effectively and to protect the client's privacy, the CFP® professional shall safeguard the confidentiality of such information.

35

Code of Ethics

Principle 6 - Professionalism

A CFP® professional's conduct in all matters shall reflect credit upon the profession.

Because of the importance of the professional services rendered by CFP® professionals, there are attendant responsibilities to behave with dignity and courtesy to all those who use those services, fellow professionals, and those in related professions. A CFP® professional also has an obligation to cooperate with fellow CFP® professionals to enhance and maintain the profession's public image and to work jointly with other CFP® professionals to improve the quality of services. It is only through the combined efforts of all CFP® professionals, in cooperation with other professionals, that this vision can be realized.

36

Code of Ethics

Principle 7 - Diligence

A CFP® professional shall act diligently in providing professional services.

Diligence is the provision of services in a reasonably prompt and thorough manner. Diligence also includes proper planning for, and supervision of, the rendering of professional services.

37

Case Study: Orphan Lead

Experienced life insurance agent is also a CFP® practitioner.

Agent receives information in September regarding a 10-year term insurance policy issued to a client of his office, but not his client. The agent who sold the policy is no longer with the firm.

In December, the policy is reaching its 10th anniversary and the premium is about to increase from **\$1,000/year** to **\$1,000/month**.

Agent sends letter to client in September explaining his rights to convert the policy to a new cash value policy and includes in his letter a series of illustrations based on the client's current age, run based on **preferred non-smoker rates**.

38

Case Study: Orphan Lead

In October, Client writes back thanking Agent, but informing him that his current policy was issued **RATED** and as a **SMOKER**. Further, he indicates that he is still a smoker and would likely still be rated.

Agent suggests that Client complete a new application and submit to an insurability exam, which the Client agrees to do in October.

In November, Agent is informed that his the new policy has been declined, but that the application has been forwarded to reinsurance.

Client writes back to Agent letting him know that he is exploring coverage with another Agent.

39

Case Study: Orphan Lead

In December, Agent tells Client to pay the higher premium for one month before the end of the year to keep the current policy in-force until an offer has been made.

Client writes back asking how long can he delay the payment.

Agent writes back that there is a 30-day grace period and that the monthly premium must be paid by January. Further, Agent tells Client that he has heard that the reinsurers are about to make an offer. In fact, just a few days after this letter, Agent is informed that all of the reinsurers also declined the coverage.

Client does not pay higher premium in December or January.

40

Case Study: Orphan Lead

In February, Client dies.

- No coverage is in-force.
- Coverage is beyond its grace period and could not have been reinstated had he been alive.

What should Agent/Certificant have done differently, if anything?

What, if any, Code violations exist?

41

A CFP® professional shall:

Principle 1 – Integrity

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Principle 2 – Objectivity

be objective in providing professional services to clients.

Principle 3 – Competence

provide services to clients competently and maintain the necessary knowledge and skill to continue to do so in those areas in which the CFP® professional is engaged.

Principle 4 – Fairness

perform professional services in a manner that is fair and reasonable to clients, principals, partners and employers, and shall disclose conflict(s) of interest in providing such services.

Principle 5 – Confidentiality

not disclose any confidential client information without the specific consent of the client unless in response to proper legal process, to defend against charges of wrongdoing by the CFP® professional or in connection with a civil dispute between the CFP® professional and client.

Principle 6 – Professionalism

reflect credit upon the profession in the conduct in all matters.

Principle 7 – Diligence

act diligently in providing professional services.

42

Case Study: Existing Client

Experienced life insurance agent is also a CFP® practitioner.

Agent receives information regarding a \$50,000 whole life policy that he had written 10-years ago to a client who was then 45.

Agent sees that the dividends have been accumulating inside the policy and are now large enough to pay the first premium on a new \$250,000 whole life policy for his Client, now age 55.

Agent sends a letter to Client informing him of this fact and suggests that they meet to take new application.

Client agrees and completes the paperwork, which includes replacement forms and an authorization for the dividends to be applied to the new policy. ⁴³

Case Study: Existing Client

The new policy is issued and properly delivered.

The following year, Client receives a bill for the \$250,000 policy. He writes to the Agent instructing him to *"apply the dividends from the old policy to pay for the new policy, just like you did for me last year."*

Agent writes back that all of the dividend accumulations were applied to the first premium only and that the dividend on the old policy plus the dividend on the new policy were not nearly sufficient to pay much if any of the new premium.

Agent writes letter of complaint to the Agent alleging that he never understood that the old policy would be sufficient to fund the new policy. ⁴⁴

Case Study: Existing Client

What should Agent/Certificant have done differently, if anything?

What, if any, Code violations exist?

⁴⁵

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act diligently in providing professional services.

46

Case Study: Speeding and Intoxicated

CFP® Certificant has never disclosed on any renewal (or on his original application) that he has a long record of speeding and driving under the influence. There is also one arrest for being drunk and disorderly.

CFP Board finds out based on a report made by another Certificant.

No complaint has ever been filed by a client regarding Certificant's performance of his financial planning duties.

47

Case Study: Speeding and Intoxicated

What should Certificant have done differently, if anything?

What, if any, Code violations exist?

What should other Professionals have done who know this Certificant and know about his criminal record?

What, if any, Code violations exist for them?

48

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