

THE DISCIPLINARY AND ETHICS COMMISSION

IN THE MATTER OF

BRUCE WEINSTEIN,

Respondent

CFP Board Case No. 2023-65224

March 27, 2024

ORDER

Appearances

Enforcement Counsel appeared by video conference for Certified Financial Planner Board of Standards, Inc. (“CFP Board”).

Bruce Weinstein (“Respondent”) appeared by video conference and was represented by legal counsel.

DEC Counsel appeared by video conference for the Disciplinary and Ethics Commission (“DEC” or “Commission”), and a Hearing Panel of the Commission, which also appeared by video conference.

I. PROCEDURAL BACKGROUND

Certified Financial Planner Board of Standards, Inc. (“CFP Board”) granted Respondent the right to use the CFP Board certification marks, including the CFP[®], CERTIFIED FINANCIAL PLANNER[™],  and  certification marks (“CFP[®] marks”) on August 31, 2005. (DEC Book¹ at 23.) On December 21, 2016, CFP Board suspended Respondents certification via an automatic interim suspension, based on the same or similar conduct discussed below. (*Id.* at 184.) On August 7, 2017, the Commission issued an Order suspending Respondent’s CFP[®] marks for four years, from October 3, 2017 to October 3, 2021 (the “2017 Order”), discussed below. (*Id.* at 163-171.)

Pursuant to Article 14 of CFP Board’s *Procedural Rules*, a Respondent whose Certification and Trademark License has been suspended by the DEC, Code and Standards Enforcement Committee², or Appeals Commission for a period longer than one year is not eligible for reinstatement unless (i) Respondent has filed a written Petition for Reinstatement After Suspension with the DEC, and contemporaneously delivered the Petition to Enforcement Counsel, and (ii) the DEC (or if the DEC’s decision is appealed to the Appeals Commission, then the Appeals Commission) has granted the Petition.

On June 28, 2022, CFP Board sent Respondent a Notice to Commence Petition for Reinstatement After Suspension of More Than One Year (“Notice”). (*Id.* at 295.) On August 8, 2022, Respondent filed a Petition for Reinstatement After Suspension of More than One Year, in accordance with Article 14 of the

¹ The DEC Book and any other exhibits to this Order will not be published under Article 17.7 of the *Procedural Rules*.

² CFP Board’s Code and Standards Enforcement Committee of CFP Board’s Board of Directors was a prior iteration of CFP Board’s current Appeals Commission.

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Procedural Rules (his “First Petition”). (*Id.* 292-303.) On October 20, 2022, Respondent appeared before a Hearing Panel of the Commission and was not represented by counsel. (*Id.* at 295.) On October 31, 2022, the Hearing Panel requested certain additional information and documents, including the following request:

Article 14.3 of the *Procedural Rules* provides factors for rehabilitation and fitness, including “Whether and how Respondent has integrated the *Code and Standards* in Respondent’s practice.” You provided testimony concerning this factor during the hearing, but you did not provide written documentation showing such integration. To the extent you have any documentation (e.g., *policies and procedures* or other *written codification of the integration of the Code and Standards into your practice*), please submit them to the panel.

(*Id.* at 307-317.) (Emphasis added.) (“Additional Prompt #1”.)

In response, Respondent wrote in relevant part: (October 31, 2022) “I have inquired with several CFP colleagues for guidance on their ‘Code and Standards’ and how to integrate them into our practice.” (November 2, 2022) “I have consulted with 2 active CFP practitioners, both of which remain securities licensed, to which they adhere to their broker/dealer guidelines. Since we are no longer affiliated with any broker/dealers, I am unsure how and what to provide....” and (November 11, 2022) “To date, I have been unable to complete the task.... This has been a challenge as I am unfamiliar with where to obtain or how to prepare this item.” (*Id.* at 307-314.) DEC Counsel responded that the Hearing Panel only sought existing documentation, then forwarded Respondent’s responses to the Hearing Panel. (*Id.* at 307.)

On January 6, 2023, the Commission issued an order denying Respondent’s First Petition (the “2023 Order”) and permitting him to file a Renewed Petition for Reinstatement after he obtains a final decree in his ongoing Chapter 11 Bankruptcy matter³ (or, by December 31, 2023, whichever is sooner). (*Id.* 292-303.) Specifically, in the 2023 Order, the Commission determined that Respondent had failed to demonstrate his rehabilitation and fitness with respect to *whether and how Respondent has integrated the Code and Standards in Respondent’s practice*. (*Id.* at 300.) (“Additional Prompt #2”.)

The Commission’s 2023 Order directed that, if Respondent files a Renewed Petition for Reinstatement, in addition to providing evidence of the other factors for rehabilitation and fitness with his Renewed Petition, Respondent “should work to provide further evidence of his integration of the *Code and Standards* in Respondent’s practice, which could, *as suggested [during the hearing] by CFP Board Counsel* [(“Additional Prompt #3” - during the hearing)] take the form of a *policy manual*, or otherwise provide *specific examples of integration of the Code and Standards into his work for clients*.” (*Id.* at 302.) (Emphasis added.) (“Additional Prompt #4” - after the hearing.) The 2023 Order further noticed that, pursuant to Article 14 of the *Procedural Rules*, if the Commission denies Respondent’s Renewed Petition for Reinstatement, the Commission must issue a revocation, which will be published in accordance with Article 17.7 of the *Procedural Rules*. (*Id.* at 303.)

³ On May 20, 2016, Respondent filed a petition for Chapter 11 reorganization in the U.S. Bankruptcy Court for the Southern District of Florida (West Palm Beach)—Respondent’s second bankruptcy matter (“2016 Bankruptcy”). (DEC Book at 166, 298.) On January 4, 1991, Respondent had previously filed for Chapter 7 Bankruptcy protections in the U.S. Bankruptcy Court for the District of New Jersey, which was discharged on April 30, 1991 (“1991 Bankruptcy”). (*Id.*)

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On September 8, 2023, Respondent filed his Renewed Petition for Reinstatement Eligibility (“Renewed Petition”) in accordance with Article 14 of CFP Board’s *Procedural Rules*.⁴ (*Id.* at 4-120.) On October 6, 2023, Enforcement Counsel filed its Response to Respondent’s Renewed Petition and requested a hearing before the Commission.⁵ (*Id.* at 121-372.)

On December 20, 2023, a Hearing Panel of the Commission convened to review the above-described Renewed Petition. (Transcript of Hearing of Bruce Weinstein, December 20, 2023 (“Tr.”) at 1.)

The Commission considered the Hearing Panel’s recommendation and issued this final order on March 27, 2024.

II. FINDINGS OF FACT

A. Background

Respondent has passed the following FINRA examinations: (a) Series 63 – Uniform Securities Agent State Law Examination (1994); (b) Series 7 – General Securities Representative Examination (1994); (c)

⁴ Respondent’s Renewed Petition was composed of two submissions, one submitted before CFP Board’s *Procedural Rules* were updated and replaced on September 1, 2023, and one following that effective date. The parties jointly wrote to the Commission explaining:

This email follows two PDFs I transmitted to decfilings@cfpboard.org, Respondent Bruce M. Weinstein and [his counsel] via Clio Connect this afternoon. The PDFs contain the contents of Mr. Weinstein’s Renewed Petition for Reinstatement. Mr. Weinstein’s counsel previously transmitted the contents of the PDF labeled “Weinstein Renewed Petition - 7.28.23 Submission” prior to the effective date of the current version of the *Procedural Rules*. Mr. Weinstein’s counsel subsequently submitted to Enforcement Counsel additional documentation in connection with the Renewed Petition, contained in the PDF labeled “Weinstein Renewed Petition – 9.6.23 Submission.”

... Enforcement Counsel and counsel for Respondent have agreed that the filing date of the Renewed Petition for Reinstatement shall be today’s date, September 8, 2023, and that Enforcement Counsel shall therefore file its Response to the Petition within 30 calendar days of September 8, 2023, pursuant to Article 14.1.c. of the *Procedural Rules*. Enforcement Counsel intends to include in its Response the invoice for the DEC review fee associated with this matter.

(DEC Book at 3.)

⁵ Specifically, Enforcement Counsel requested a hearing for an opportunity to pose questions to Respondent, including questions concerning:

(i) ***whether and how Respondent has integrated the Code and Standards in his practice***, a factor relevant to rehabilitation and fitness pursuant to Article 11.8.d. of the *Procedural Rules*; and (ii) the scope of Respondent’s current practice, in view of the description of his practice in the Renewed Petition and accompanying documents and the description of services offered as set forth on his website [see DEC Book at 349-372]. The scope of Respondent’s practice is relevant when considering ***whether and how Respondent has integrated the Code and Standards into his practice***.

(DEC Book at 123.) (Emphasis added.) (“Additional Prompt #5”.)

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Series 24 – General Securities Principal Examination (1998); (d) Series 65 – Uniform Investment Adviser Law Examination (2003); (e) Series 31 – Futures Managed Funds Examination; and (f) SIE – Securities Industry Essentials Examination (2016). (DEC Book at 135.)

Respondent was previously registered with various broker-dealers from 1998 until 2016, including as a Financial Advisor and registered representative with a large well-known firm, Firm-Z, from 2011 to 2014, until he was permanently barred by FINRA in 2016. (DEC Book at 137; *see also* Tr. at 21.) Respondent is currently not registered with any Member firm and is permanently barred from associating with any Member firm. (*Id.*)

In 2018, Respondent was offered a position with a firm that sold property and casualty insurance, obtained his property and casualty insurance license from Florida Department of Insurance and two or three non-resident states (Tr. at 68, 73), and successfully recruited, trained, and managed a team of agents (DEC Book at 297). However, his position was eliminated when the firm was sold. (*Id.*)

In 2020, Respondent stated he and his wife “rebranded” his existing firm, Weinstein Wealth Management, Inc., into Weinstein Wealth Insurance Solutions, Inc. (“WWIS”), an insurance-only practice that offers various insurance products including property and casualty, health, life, disability, and long-term care insurance, as well as fixed and indexed annuities. (*Id.*; *see also* Tr. at 24.) Respondent stated he is “the face from the marketing” of WWIS and he “pre-sells” clients, but his wife must enroll clients under her accounts because Respondent’s permanent bar by FINRA has prevented him from getting E&O insurance and appointments from insurance carriers. (Tr. at 24; *see also id.* at 70-71.)

1. Respondent’s Website

Despite being an insurance-only firm, WWIS has a website advertising it provides financial planning and investment management services. (DEC Book at 349-372.) Several pages on the website describe types of investments (stocks, bonds, mutual funds, ETFs, real estate, cryptocurrencies) and types of investment strategies (diversification, asset allocation) and contain various opportunities and means for prospective clients to schedule a consultation or request a quote (pop-up chats, forms, contact information). (*Id.*) Respondent also stated: “any social media of mine has access to my calendar links where people kind of know [they can] book a call anytime they need.” (*Id.* at 36.) When asked at the hearing whether information about these services would be confusing to clients and prospective clients, Respondent stated the website is “under renovation” and that he does not obtain any business from the information on his website referencing wealth management, although he could rectify this information if the DEC requested him to do so. (Tr. at 98-99.)

2. Respondent’s Podcast

Respondent stated that he hosts a public podcast called “Ask the Plan Man” in which he discusses financial topics and provides information to listeners to promote financial literacy—without providing investment advice, according to Respondent. (*Id.* at 35, 39.) Respondent stated that “Plan Man” is an ambiguous term, and he has competitors that only sell health insurance but call themselves “Plan Man.” (*Id.*) Respondent stated multiple times during the hearing that his goal is to help people, and one of his marketing taglines is: “I have nothing to sell, just problems to solve.’ And that’s how I hold myself out.” (Tr. at 79.)

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B. The Commission’s 2017 Order Suspending Respondent’s Certification for Four Years

On August 7, 2017, the Commission issued the initial 2017 Order introduced above, that suspended Respondent’s CFP Board certification for four years. (*Id.* at 163-169.) The Commission imposed this sanction after determining that Respondent knowingly submitted false expense reports to his former employer Firm-Z and accepted reimbursements from Firm-Z for ineligible expenses, thereby converting firm funds in violation of FINRA Rule 2010, and causing Firm-Z to maintain inaccurate books and records in violation of FINRA Rule 4511. (*Id.*) Specifically, the expense reports Respondent submitted, “falsely represented that Respondent and multiple customers and potential customers had attended football games using tickets for which Respondent sought reimbursement. In fact, [Respondent] had sold the tickets to third parties, and neither he nor any customers or potential customers had attended the games.” (*Id.* at 140-148.) The Commission further found that Respondent filed his second bankruptcy petition, the 2016 Chapter 11 Bankruptcy matter, to avoid a possible FINRA Award against him stemming from an arbitration over his loan repayment to Firm-Z.⁶ (*Id.*) Firm-Z permitted Respondent to resign, and he entered into a Letter of Acceptance, Waiver and Consent with FINRA (“AWC”) consenting to a permanent bar from associating with any FINRA member in any capacity. (*Id.*) The Commission noted in its 2017 Order that “the FINRA bar was unnecessarily harsh given the conduct at issue.” (*Id.* at 168.)

As a result of this misconduct, the Commission determined that Respondent violated Rules 5.1 and 6.5 of CFP Board’s *Rules of Conduct*, which provided grounds for discipline pursuant to Articles 3(A) and 3(D) of CFP Board’s prior *Disciplinary Rules and Procedures*. (*Id.* at 167-168.) The Commission cited in mitigation that (a) while Respondent’s second bankruptcy was recent, Respondent filed his first bankruptcy 20 years prior to joining the financial services industry and 26 years prior to the Commission’s 2017 Order; (b) he filed his second bankruptcy on the advice of counsel to preserve his ability to obtain employment in the financial services industry; (c) Respondent had no prior disciplinary history with CFP Board; and (d) there was no evidence of client harm resulting from Respondent’s misconduct. (*Id.* at 169.) The Commission determined these mitigating factors outweighed the aggravating fact that Respondent knowingly submitted multiple false expense reports to Firm-Z, and instead of revoking Respondent’s CFP Board certification in accordance with the baseline sanction recommended in CFP Board’s *Sanction Guidelines*, the Commission mitigated Respondent’s sanction down to a four-year suspension to run concurrently with his Chapter 11 Bankruptcy plan, allowing him to return before the Commission to demonstrate his rehabilitation and petition for reinstatement. (*Id.*) Respondent’s four-year suspension was effective October 3, 2017 to October 3, 2021. (*Id.*)

1. Respondent’s Characterization of His Misconduct

During Respondent’s hearing on his Renewed Petition, Respondent characterized his misconduct as a “misunderstanding” and “just bookkeeping” and “that \$2,000 mistake” and he initially appeared to blame his assistant for “putting in, you know, receipts that perhaps [she] should not have....” (Tr. at 26, 54.) Although, on further questioning Respondent stated that he provided the expenses to his assistant for

⁶ Respondent explained: “so the game plan [was] that I would file for bankruptcy, emergency bankruptcy protection, because if I went to arbitration, I was now going to lose and I would be required to write a check to [Firm-Z] for a million dollars or FINRA ... would take my license until I did so.” (DEC Book at 52.)

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reimbursement. (*Id.* at 75.) Specifically, Respondent stated that he pre-paid for football game season tickets and would periodically direct his assistant to submit receipts of tickets to certain games, in lieu of submitting other expenses for reimbursement like mileage records, parking, and tolls. (*Id.* at 75: “So here's \$300 worth of football tickets, don't worry about my mileage and make that entry.”) Although, between September 12, 2014 and October 29, 2014, Respondent submitted 47 tickets seeking reimbursement for \$5,035—which the Commission believed to be an exorbitant amount for a month and a half of mileage, parking, and tolls—and this amount does not include the profits he received from selling those tickets to third parties. (DEC Book at 192.) Respondent stated he had \$30,000 in receipts for other reimbursable expenses he could have submitted in lieu of the football tickets, but Firm-Z used his football ticket submission as “leverage” to oust him from the company. (Tr. at 26, 54, 73-75.) The Hearing Panel did not find Respondent credible in discussing his misconduct and the Commission agreed.

B. Respondent’s Desire to be Reinstated

Respondent stated during the hearing on his Renewed Petition that his intent, purpose, and desire to reinstate his CFP Board certification is “some level of pride” because Firm-Z “stole, stripped, removed everything in my soul” and “at the end of the day, this is really a moral victory of the one thing [Firm-Z] couldn’t take back.” (*Id.* at 21, 41.) Respondent stated he believed he was “being ganged up on all avenues” and that there was a conspiracy to get him and that Firm-Z and FINRA had acted in collusion against him. (*Id.* at 39, 52, 59, 66-67; DEC Book at 301.) Respondent made similar statements during the Commission’s review of his First Petition—he stated it would be a “moral victory of getting it back [and a] pride thing. I worked hard at it. You know, they said they could steal my book of business, they could take my license, but they can't take my knowledge and they can't take my ability of helping people, even if it's non-compensatory.” (*Id.* at 299.)

1. The Limited Impact of Respondent’s Reinstatement

When a Hearing Panel member asked Respondent what the CFP Board certification marks mean to him, Respondent replied that the CFP® marks are “the paramount of professionalism” and he was proud to be a CFP® professional. (Tr. at 79-80: “I just think it would be awesome to have it back....”) Respondent stated he would like to re-obtain what he had worked hard for a long time to obtain, but “it's not going to change the direction of my life if I don't.” (*Id.* at 80.)

Respondent stated he is unable to monetize the CFP® marks by charging fees or managing assets but having the CFP® marks would increase the credibility of the information he provides on his “Ask the Plan Man” podcast. (*Id.* at 99-100.) When a Hearing Panelist asked Respondent how reinstating his CFP Board certification would differentiate him from other insurance professionals, Respondent answered: “it just adds a higher level of credibility. I view it as elevating the credibility of my podcast....” (*Id.* at 39.) Respondent added: “If I don't have it, it's not going to change the direction of what I'm doing.” (*Id.* at 40.)

C. Respondent’s Renewed Petition for Reinstatement Eligibility

On September 8, 2023, Respondent filed his Renewed Petition for Reinstatement Eligibility in accordance with Article 14 of the *Procedural Rules*. (DEC Book at 4-120.) In support of his Renewed Petition, Respondent submitted all administrative materials and submitted materials as evidence of his

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rehabilitation, fitness for CFP® certification, and compliance with the terms of the Commission's prior Orders, including evidence that his Chapter 11 Bankruptcy had resolved, and evidence purporting to show that Respondent has integrated the *Code and Standards* into his practice, as discussed below. (*Id.*)

1. CFP® Certification Application

Respondent provided his CFP® Certification Application, notably in which he indicated “Yes” to the statement “I am a personal financial planning practitioner” and he wrote:

I engage in the financial planning process of determining whether and how an individual can meet life goals through the proper management of financial resources and I integrate the financial planning process with two or more of the financial planning subject areas which include, but are not limited to: Financial statement preparation and analysis; Insurance planning and risk management; Employee benefits planning; Investment planning; Income tax planning; Retirement planning; and Estate planning.

(DEC Book at 36.)

2. Dismissal of Chapter 11 Bankruptcy

The Commission found in its 2023 Order denying Respondent’s First Petition that Respondent was current on all payments pursuant to his Chapter 11 Bankruptcy payment plan, but since the plan was not due to be completed until June 2023, “unforeseeable disruptive factors” (e.g. to cash flow, income, business conditions) could still affect his ability to comply with the terms of the bankruptcy case and could impact the Commission’s view of his fitness to carry the marks. (DEC Book at 301.) The Commission permitted Respondent to file a Renewed Petition after the bankruptcy court discharged his 2016 Chapter 11 Bankruptcy and issued a final decree closing the case (or, before December 31, 2023.) (*Id.* at 302.)

With his Renewed Petition, Respondent provided a copy of the bankruptcy court’s Order of Discharge and Final Decree dated May 23, 2023, which orders that a discharge under 11 U.S.C. §1141(d)(5) is granted to Respondent and dismisses Respondent’s 2016 Chapter 11 Bankruptcy matter. (*Id.* at 17.) Respondent asserted in his Petition that this proof of completion of the 2016 Bankruptcy, coupled with his retention of a CPA firm to assist with his financial affairs, should allay the Commission’s remaining concerns about any potential disruptive financial factors that could impact Respondent’s fitness to carry the marks. (*Id.* at 20-21.)

3. Respondent’s “CFP Policy and Procedure”

In the Commission’s 2023 Order denying Respondent’s First Petition, the Commission directed Respondent to provide further evidence of his integration of the *Code and Standards* into his practice, and urged Respondent to do so by, for example, providing a policy manual or specific examples of how he has integrated the *Code and Standards* into his work with clients. (DEC Book at 302.) Respondent did not provide any such documentation in support of his First Petition, nor in response to requests from the Hearing Panel following the hearing on his First Petition, nor in response to prompts from DEC Counsel after that hearing despite having nearly two weeks to do so. (*Id.* at 307-314.) At his hearing on the instant

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matter, Respondent stated that he was “surprised” the Commission required evidence demonstrating whether and how he has integrated the *Code and Standards* into his practice, because he no longer manages client funds, and he is therefore not subject to the same “oversight or requirements,” including the requirements of the *Code and Standards*. (Tr. at 82.)

Respondent stated in his Renewed Petition that, prompted by the Commission’s 2023 Order, he employed legal counsel to create a document titled Weinstein Wealth Insurance Solutions, LLC (“Weinstein Wealth”) Certified Financial Planner (“CFP”) Policy and Procedure” (WWIS Policies), which he submitted in support of his Renewed Petition to demonstrate how he has integrated the *Code and Standards* in his practice (“WWIS Policies”). (DEC Book at 5-15.) Although this document was created specifically for these proceedings, Respondent stated it reflects what he does “subconsciously ... in the brain and in the DNA....” (Tr. at 82-83.)

The WWIS Policies states that since Respondent “is not providing investment advisory or financial planning services to clients, his firm has implemented a set of policies and procedures which are designed to address the manner in which the *Code and Standards* will be addressed in his day-to-day insurance practice.” (DEC Book at 20.) The WWIS Policies goes on to quote and describe CFP Board’s *Code and Standards*, but it does not provide any policies or procedures or specific examples of how Respondent or his firm applies the *Code and Standards* in practice.

For example, Respondent stated multiple times that he has many partners he refers clients to when a client seeks financial advice, and while the WWIS Policies restates—verbatim—Standard A.13 Recommending, Engaging, And Working With Additional Persons, the WWIS Policies does not describe any policy or procedure or provide any specific examples related to Respondent or WWIS recommending clients to partners or other additional persons. (*Id.* at 12-13; Tr. at 31, 58-59, 76-77.)

In addition to its description of the *Code and Standards*, the document includes several notes or comments throughout, emphasized in bold fonts, appearing only to limit the applicability of the *Code and Standards* in Respondent’s and WWIS’s insurance-only practice, for example (emphases in original):

- **Note: Weinstein Wealth’s practice is limited to providing various insurance services not related to the provision of investment advice or financial planning. Weinstein Wealth’s insurance service may pertain to life and health insurance, property and casualty insurance, long term care and medicare insurance.** (DEC Book at 5.)
- **Note: Weinstein Wealth Insurance Solutions limits its practice to the provision of insurance services.** (*Id.* at 6.)
- **NOTE: Weinstein Wealth will not provide financial advice, unless in the context of its insurance services. The Firm will not be compensated in relation to the provision of financial advice.** (*Id.* at 7.)
- **NOTE: Weinstein Wealth will not engage in Financial Planning engagements. Any financial advice will be uncompensated and solely incidental to the provision of insurance services.** (*Id.* at 8.)

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Respondent's counsel stated in support of the Renewed Petition that the WWIS Policies intends to convey that WWIS's provision of insurance-only services may involve other incidental financial issues, but WWIS does not attempt to provide financial planning and will not be compensated for discussing any other financial issues incidental to providing insurance services. (*Id.* at 94.) However, Respondent and his Counsel both stated at the hearing on the Renewed Petition that they believe Respondent's and WWIS's provision of insurance-only services *does* constitute Financial Planning as defined in the *Code and Standards*.⁷ (Tr. at 96-97) Respondent also indicated "Yes" to the statement "I am a personal financial planning practitioner" on his CFP® Certification Application described above, and Respondent's website continues to indicate that his firm provides financial planning and investment management services. (DEC Book at 36, 349-372). While the WWIS Policies acknowledges that the *Code and Standards* requires CFP® professionals to comply with certain disclosure and conflict of interest provisions, Respondent stated that he does *not* disclose all the information to his clients that the *Code and Standards* would require if he were a CFP® professional, including information like his background, compensation he'll receive, his disciplinary history, or any individual conflicts he has with the client, because: "we're not required to provide that kind of information, so we haven't volunteered it. It may have come up in certain situations, but it's not a protocol." (DEC Book at 5, 10, 13-14; Tr. at 91.)

C. Respondent Admits That He Borrowed Money from a Client

Respondent included with his Renewed Petition his letter to Enforcement Counsel seeking a waiver of hearing fees dated July 26, 2022, in which he states: "For the last 20 months... we generated \$80,000 in new business commissions [and] reinvested that money in our business as well as borrowed \$20,000 from two of my fraternity brothers." (DEC Book at 49.) (Emphasis added.)

Respondent stated at the hearing that he has "a 40-year-plus history with some college fraternity brothers, several of which were clients prior to my leaving the business." (Tr. at 57.) Respondent stated a couple of those fraternity brothers "were kind enough and compassionate enough to lend us money to start the business that we're in today. They have been paid back last year. And then due to some expansions that we wanted to execute the second half of this year, they were kind enough to give the money back." (*Id.*) (Emphasis added.)

⁷ During the hearing, Enforcement Counsel asked twice, and Respondent's counsel answered, and Respondent answered twice:

[ENFORCEMENT COUNSEL]: I just want to clarify my understanding. The code and standards has standards regarding two defined areas. It has standards regarding financial planning, and it has standards regarding financial advice. So the services that you provide, do you believe that it falls under CFP Board's definition of financial planning?

[RESPONDENT]: Yes, I do.

[ENFORCEMENT COUNSEL]: The insurance services that you provide, you believe it falls under CFP Board's definition of financial planning?

[RESPONDENT]: Yes.

[RESPONDENT'S COUNSEL]: As do I. Insurance is a component of the CFP.

[ENFORCEMENT COUNSEL]: And so then you believe it falls under CFP Board's definition of financial advice, as well?

[RESPONDENT]: I think they're intertwined, yes.

(Tr. at 96-97.)

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Respondent stated that at least one fraternity brother bought a life insurance policy from Respondent, either circa 2017-2018, or 2020-2021.⁸ (*Id.* at 69.) The fraternity brother that bought the life insurance policy from Respondent also wrote two positive letters of reference for Respondent that Respondent included with his Renewed Petition, including a letter dated July 15, 2016, in which the fraternity brother wrote in part: “I relied heavily on Mr. Bruce Weinstein to manage my retirement account and his advice about my investments.... Please consider this and allow Bruce to continue to serve me and his other clients with the integrity he has shown to us in the past.” (DEC Book at 107.) (Emphasis added.)

III. ANALYSIS OF RESPONDENT’S RENEWED PETITION

A. Respondent’s Burden of Proof

Pursuant to Article 14.2 of the *Procedural Rules*, a Respondent seeking reinstatement eligibility following an Order of Suspension of more than one year must prove by clear and convincing evidence the Respondent’s rehabilitation, fitness for CFP® certification, and compliance with the terms of the DEC’s order. Clear and convincing evidence is a standard of review that is higher than a preponderance of the evidence, and means “a high probability,” i.e., evidence which shows that, as a whole, it is highly probable that the matter sought to be proved is true.

B. Respondent Has Not Met His Burden to Prove His Rehabilitation or Fitness for CFP® Certification

The Commission determined that Respondent has not met his burden to prove his rehabilitation or fitness for CFP® certification by clear and convincing evidence. In making this determination, the Commission considered the facts found above to evaluate the factors relevant to rehabilitation and fitness found in Article 11.8.

⁸ Standard A.15 of the *Code and Standards*, **REFRAIN FROM BORROWING OR LENDING MONEY AND COMMINGLING FINANCIAL ASSETS** (emphasis in original), provides:

- a. A CFP® professional may not, directly or indirectly, borrow money from or lend money to a Client unless:
 - i. The Client is a member of the CFP® professional’s Family; or
 - ii. The lender is a business organization or legal entity in the business of lending money.
- b. A CFP® professional may not commingle a Client’s Financial Assets with the Financial Assets of the CFP® professional or the CFP® Professional’s Firm.

Rule 3.6 of the prior *Rules of Conduct* provides that a certificant shall not borrow money from a client and exceptions to this rule include:

- A. The client is a member of the certificant’s immediate family, or
- B. The client is an institution in the business of lending money and the borrowing is unrelated to the professional services performed by the certificant.

Therefore, if Respondent was a CFP® professional at the time, the Commission found he likely would have violated Standard A.15 of the *Code and Standards* or Rule 3.6 of the *Rules of Conduct* since there is no indication Respondent’s fraternity brothers were members of Respondent’s family or a business organization or legal entity or institution in the business of lending money. Furthermore, borrowing money from clients likely violated state insurance laws where Respondent is licensed.

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1. *If Respondent is applying for reinstatement after the issuance of an order imposing a sanction, whether Respondent has violated CFP Board's Code and Standards since the issuance of the order, or engaged in a prior violation of CFP Board's Code and Standards that previously was unknown to CFP Board.*

No direct evidence was presented that Respondent has violated the *Code and Standards* since the Commission's 2017 Order—Respondent submitted a completed Ethics Declaration to CFP Board attesting to the same and Enforcement Counsel did not allege any new violations. (DEC Book at 24-32.) Enforcement Counsel also stated at the hearing that it conducted a full background check on Respondent, which included searching the Florida Department of Financial Services Insurance Licensee database and found not disclosable events during the time Respondent was suspended or the intervening period since his First Petition. (Tr. at 107.) Respondent's BrokerCheck Report indicates customer complaints that his previous firms settled that occurred prior to obtaining his CFP® certification, but it does not provide any direct evidence of any violations since 2017. (DEC Book at 131-132.)

However, during the hearing, the Commission found that Respondent admitted to borrowing money from a client when he stated that two of his fraternity brothers had loaned him money to start his new business, and at least one of his fraternity brothers was a client of Respondent's at Firm-Z and had recently bought a life insurance policy from Respondent. (Tr. at 57, 69; DEC Book at 49, 107.) This may be a violation of Standard A.15 of the *Code and Standards* or Rule 3.6 of the predecessor *Rules of Conduct* as well as state insurance laws.

The Commission was therefore not satisfied with the evidence Respondent provided and determined Respondent has not met his burden to prove the first factor evidencing rehabilitation and fitness under Article 11.8.

2. *Whether and how Respondent has taken actions that are designed to prevent the circumstances that required Respondent to file a Petition.*

The 2017 Order resulted from Respondent submitting inaccurate expense reimbursement requests and filing a second bankruptcy matter to avoid a possible FINRA arbitration award against him, and the Commission found in its 2023 Order that Respondent had proved this factor by hiring both a bookkeeper and a Certified Public Accountant ("CPA") to maintain the books and records of his firm. (DEC Book at 59-61, 299, 305.) Furthermore, Respondent has provided this Commission with evidence that his Chapter 11 Bankruptcy matter has been discharged and the case was dismissed. (DEC Book at 17-18.)

Therefore, the Commission determined Respondent has proved this factor.

3. *Whether and how Respondent has integrated the Code and Standards in Respondent's practice.*

The Commission determined that Respondent did not prove this factor evidencing his rehabilitation and fitness under Article 11.8 because Respondent did not provide sufficient evidence that he or his firm has established any legitimate integration of the *Code and Standards* into Respondent's practice or business.

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The WWIS Policies document that Respondent and his counsel submitted with Respondent's Renewed Petition to demonstrate how Respondent has integrated the *Code and Standards* into his practice, appeared to the Commission to be merely a recitation or restatement of the *Code and Standards*, which was only slightly more sophisticated than re-writing or copying and pasting the *Code and Standards* directly into Respondent's Renewed Petition with commentary—the WWIS Policies document did not resemble a financial firm policy and did not include any firm-specific procedures. Furthermore, the additional corresponding commentary in this document appeared to the Commission to exist only to abrogate Respondent's duties under the *Code and Standards* by minimizing its requirements in light of Respondent's business model, yet the *Code and Standards* reflect the commitment that all CFP® professionals make to high standards and ethics, regardless of business model.

Respondent and his counsel admitted at the hearing on the Renewed Petition that by providing insurance services to clients, Respondent provides Financial Planning services and Financial Advice to clients. While Respondent provided testimony and his letters of reference further demonstrate that Respondent acts in the best interest of his clients when providing them with insurance advice—consistent with the Fiduciary Duty set forth in the *Code and Standards*—Respondent also testified that the *Code and Standards* do not apply to him, including with respect to disclosing his compensation, disciplinary history, and conflicts of interest to clients, and that he was “surprised” he would have to provide evidence of this factor. Respondent did not seem to understand whether the WWIS Policies is already integrated in his practice or whether it would need to be integrated only if his CFP Board certification is reinstated. This confusion indicates the WWIS Policies has *not* been integrated in Respondent's practice.

Similarly, Respondent did not provide sufficient evidence to prove this factor in his First Petition, which the Commission denied in its 2023 Order. Respondent was prompted during his October 2022 hearing in review his First Petition to “tell us specifically with your new business how you've integrated the *Code and Standards* into your current practice” and he did not provide a satisfactory answer. (DEC Book at 300.) Enforcement Counsel then suggested he provide a policy manual that speaks to the fiduciary duty of the individuals working at his firm or the steps that individuals in that firm must follow or take, and he did not provide the Commission with any such a policy manual. (*Id.*) After the hearing, the Hearing Panel specifically requested Respondent provide documentation showing integration, such as “policies and procedures or other written codification of the integration of the *Code and Standards* into your practice.” (*Id.*) Respondent still faltered in his responses to that Hearing Panel and ultimately did not provide any such documentation. The Commission then issued its 2023 Order which sets forth very clearly to this Commission that Respondent's First Petition is denied based on his ongoing Chapter 11 Bankruptcy matter and his inability to provide the Commission with documentary evidence demonstrating integration of the *Code and Standards* to prove this factor.

The Commission is therefore baffled how approximately one year after Respondent's First Petition was denied and having been provided numerous prompts, suggestions, and opportunities to do so, Respondent still did not present sufficient evidence demonstrating whether and how he has integrated the *Code and Standards* in his practice. Respondent did not provide specific examples demonstrating *how* he has integrated the *Code and Standards* into his practice. Respondent even appeared confused as to *whether* he had integrated the *Code and Standards* into his practice by way of the WWIS Policies. The Commission determined that Respondent has not sufficiently integrated the *Code and Standards* into his practice.

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The Commission was therefore not satisfied with the evidence Respondent presented and determined Respondent has not proved this factor evidencing Respondent's rehabilitation and fitness under Article 11.8.

4. *Whether Respondent has submitted positive letters of reference from current clients, supervisors, colleagues, or other professionals concerning the circumstances that required Respondent to file a Petition or the Respondent's character.*

Respondent submitted 57 positive letters of reference from CFP® professionals, clients, friends, and family, including the 37 letters that he previously submitted with his First Petition. (DEC Book at 39-40, 58-120.) The Commission notes that, of those letters, eight (8) are not signed, nine (9) are not dated, eighteen (18) are from 2016-2017, and twenty (20) do not include a phone number to contact the writer.

However, the Commission found that together, these 57 positive letters of reference more than adequately prove this factor.

5. *Whether Respondent has provided sufficient evidence that Respondent has complied with the applicable requirements of the Procedural Rules, including Article 11.2 (Notice to Respondent's Firm(s) and Clients Required after Public Sanction), and Article 11.3 (Prohibition Against Use of CFP Board Certification Marks By a Respondent Who is Subject to a Suspension).*

The Commission determined Respondent proved this factor as evidenced by completing his suspension and complying with the terms of the Commission's 2017 Order (which the Commission previously accepted in as evidence that Respondent had proved this factor in its 2023 Order), and further evidenced by Enforcement Counsel's certification at the hearing that Respondent did not use the CFP® marks during his suspension or any intervening periods. (DEC Book at 296; Tr. at 106.)

6. *Whether Respondent has provided a written certification that Respondent has read, understands, and will comply with, the Code and Standards.*

The Commission determined Respondent proved this factor as evidenced the Commission previously finding Respondent had proved this factor in connection with his First Petition by providing a written certification that he has read, understands, and will comply with CFP Board's *Code and Standards*. (DEC Book at 296.)

7. *Whether Respondent has provided a properly completed CFP Board Ethics Disclosure Questionnaire.*

The Commission determined Respondent proved this factor as evidenced Respondent's properly completed Ethics Declaration dated July 17, 2023, which he provided in an exhibit to his Renewed Petition. (*Id.* at 23-32.)

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8. *Whether Respondent has complied with the terms of an applicable order that required Respondent to Petition.*

The Commission determined Respondent has proved this factor as evidenced by letters from the bookkeeper and CPA Respondent hired to help him maintain his books and records for his firms, including by using QuickBooks Online and reconciling bank and credit card transactions, ensuring Respondent's expenses are accounted for and his books and records are accurate. (*Id.* at 19-22, 59-61.)

Respondent's suspension was completed on October 3, 2021, and he submitted his Petition for Reinstatement in accordance with the *Procedural Rules*, on August 8, 2022, within five years of his initial October 3, 2017 suspension date as required by the 2017 Order. (DEC Book at 296.)

Respondent submitted his Renewed Petition on September 8, 2023, in accordance with the Commission's 2023 Order, which required he refile after his Chapter 11 Bankruptcy plan has been discharged by the Court and a final decree closing the case has been obtained, or after December 31, 2023, whichever is sooner. (*Id.* at 292.) Respondent also provided certificates of completion evidencing that he completed all appropriate Continuing Education credits identified in the 2023 Order. (*Id.* at 41-57.)

9. *Any other factors the DEC or DEC Counsel determines are relevant to Respondent's circumstances.*

Respondent appeared to this Commission to be unable to claim responsibility for the circumstances that led to his FINRA permanent bar. Respondent appeared to minimize his misconduct, such as by characterizing his actions as "that \$2,000 mistake" and stating he believed the consequences of his actions were the result of Firm-Z colluding with FINRA against him. (Tr. at 26.) The Commission found Respondent's lack of contrition and inability to accept responsibility to be troubling, because it demonstrates to the Commission a lack of clear and convincing evidence of Respondent's rehabilitation.

Furthermore, the Hearing Panel found that Respondent lacked credibility and the Commission agreed. Respondent's testimony conflicted several times with the documentary evidence in the DEC Book, such as Respondent's testimony on the scope of his services is strictly limited to insurance sales while his website states otherwise and his podcast includes the word "Plan" in its title. Although the prior Commission found in its 2023 Order that Respondent appeared humble and remorseful and took full responsibility for his actions, Respondent appeared far differently to the Commission in this matter. Respondent appeared to begrudge and harbor disdain for Firm-Z and FINRA, stating they "ganged up" and conspired against him. Yet, Respondent's vindication and his vendetta against Firm-Z and FINRA is not an appropriate basis for the Commission to grant his Renewed Petition.

Respondent also admitted to borrowing money from a client, which the Hearing Panel found was extremely harmful to his credibility and the Commission agreed. Respondent admitted that one of the fraternity brothers who lent him money was a client, and borrowing money from a client likely would have been in violation of Rule 3.6 of the *Rules of Conduct* or Standard A.15 of the *Code and Standards* and state insurance laws. Yet, neither Respondent nor his legal counsel made any attempt to explain any details for the lending agreement with the client, which led the Commission to believe that they were ignorant of the fact that such an action is a serious form of misconduct.

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D. Relevant Case Histories

The Commission consulted various *Case Histories*⁹ (referred to as “CHs” or “ACHs”) to determine if any Case Histories contained non-binding precedent that may be persuasive to the Commission. In making its decision, the Commission cited ACH 43223, ACH 23012, and ACH 29190

1. ACH 43223

In ACH 43223, the Commission suspended a CFP® professional’s certification for two years in connection with his failure to provide written disclosure of outside business activities that resulted in a 14-month FINRA suspension and \$40,000 fine. The Commission denied the individual’s first petition for reinstatement with the right to reapply in two years based on evidence he had been terminated by his firm for communicating with clients during the FINRA suspension, and that he lacked proper understanding of the *Code & Standards* by holding out as a “fee-only” practitioner yet still receiving commissions from insurance sales. The Commission later granted the petitioner’s renewed petition for reinstatement after he demonstrated he ceased advertising his compensation method as “fee only”, and that he had integrated the *Code and Standards* into his practice, by analyzing each Standard, line-by-line, and providing specific examples of how he had incorporated each Standard into his practice. For example, the petitioner wrote: “Confidentiality and Privacy: All client information is held confidential and maintained on an encrypted platform. I have an IT company that saves and backs up all files daily. Our computers are password protected and all doors and desks are locked at closing. If any other situation arises, I will contact our compliance department for guidance. All clients get a copy of our privacy statement.” He also wrote: “Comply With the Law: Accomplished by knowing and understanding the laws of my profession. Also, working with our compliance department.” The petitioner in ACH 43224 provided this information in response to the Commission Chair’s post-hearing request for the parties’ production of documents and information, and the Commission viewed positively that petitioner’s compliance with the request, including compliance with the deadline, and noted that he had clearly taken some time to provide thoughtful answers.

The Commission in ACH 43223 found that the petitioner met his burden to prove by clear and convincing evidence that he not only understood the *Code & Standards* but demonstrated to the Commission through documentary evidence, action, and meaningful contemplation of the *Code and Standards*, that the petitioner had fully integrated the *Code and Standards* into the petitioner’s practice. The Commission distinguished ACH 43223 from the instant matter, because Respondent failed to comply with the prior Hearing Panel’s post-hearing request for documentary evidence, Respondent clearly had not implemented the WWIS Policies into his firm’s practice by the time of his hearing on this matter and had little understanding of the document his attorney had created for this proceeding, and Respondent still appeared confused about whether or how the *Code & Standards* apply to him.

⁹ Case Histories are available on CFP Board’s website at <https://www.cfp.net/ethics/enforcement/case-history>.

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2. *ACH 23012*

In ACH 23012, a CFP® professional was permanently barred by a predecessor to FINRA—the National Association of Securities Dealers (NASD)—for violations of federal and state securities laws and other misconduct. The Commission issued that respondent a suspension for one year and one day. That respondent filed a Petition for Reinstatement, which the Commission denied for failing to prove his rehabilitation by clear and convincing evidence. Respondent later filed a second Petition for Reinstatement. The Commission reviewing that petition found the respondent had:

1. Proved he maintained competence and learning in the area of financial planning during his suspension period by providing documentary evidence of the CE classes he attended;
2. Proved his conduct since his suspension had been exemplary and beyond reproach by providing letters of reference from colleagues and peers;
3. Proved he had made restitution or settled all claims from persons injured or harmed by his conduct by providing evidence of the payments he made;
4. Provided documentary evidence of all of his business activities during the suspension period by providing a written description of his business activities;
5. Respondent provided proof that he filled out all forms, paid all required fees and reported the required continuing education hours.

Despite proving these factors by clear and convincing evidence, the Commission in ACH 23012 determined that an individual who is barred for life by NASD cannot be confidently referred to the public. As a result, the Commission in 23012 denied that respondent's second Petition for Reinstatement and issued to him a revocation.

Similar to ACH 23012, the Commission in the instant matter has a tremendous lack of confidence in Respondent and cannot refer him to the public.

3. *ACH 29190*

In contrast to ACH 43223 and ACH 23012, the Commission cites ACH 29190 to distinguish Respondent's matter. In ACH 29190, the Commission granted a respondent's Petition for Reinstatement after determining that the respondent had been rehabilitated, had complied with all applicable disciplinary orders and provisions of CFP Board's then *Disciplinary Rules and Procedures*, and that the respondent was fit to use the CFP® marks. The respondent in ACH 29190 had demonstrated by clear and convincing evidence that he maintained competence and learning in the area of financial planning during the suspension period, submitted proof that he completed the required CE hours during his suspension, demonstrated that his conduct since his suspension had been exemplary and beyond reproach, provided several letters of recommendation from current clients and his supervisor supporting his petition, had no customer-related incidents during the period of his suspension, made restitution or settled all claims by paying a fine imposed on him by the State, provided appropriate documentation and description (including in his personal testimony to the Commission, of all his business activities during the suspension period), testified that he continued to serve his clients during the period of his suspension, and testified that he had remedied the issue for which he had been disciplined. Similarly, the respondent submitted proof that he had completed continuing education requirements, provided strong letters of recommendation submitted

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by longtime clients, a colleague, and his firm's founder, had no further known complaints, paid fully paid a settlement of a related arbitration claim, and provided proof of his relevant business activities and implementation of a CRM system to ensure clients are contacted regularly, as documented in client contact logs and written financial plans.

D. Aggravating and Mitigating Factors

The Commission considered the mitigating and aggravating factors in this case to determine whether there were any material factors relevant to this matter, and, if so, what weight those factors may have in its decision.

The Commission cited no mitigating factors. The Commission cited in aggravation that (1) Respondent admitted in his testimony that he borrowed money from a client; and (2) Respondent has a history of customer complaints and regulatory investigations via FINRA.

IV. THE COMMISSION'S DECISION

Respondent's main expectation in this matter, since the dismissal of his Chapter 11 Bankruptcy speaks for itself, was to demonstrate to the Commission how he has integrated the *Codes and Standards* into his practice. Respondent failed to present evidence to meet his burden and did not meet his burden. Respondent instead provided testimony to the Commission in which the Commission found no evidence of Respondent's intention to bring honor to the CFP® marks or to the profession.

As a result, in light of the testimony and documentary evidence Respondent provided in support of his Renewed Petition, the Case Histories cited, the weight of the aggravating factors, and Respondent's inability to meet his burden to prove by clear and convincing evidence his rehabilitation and fitness for the reinstatement of his CFP Board certification, the Commission **DENIES** Respondent's Renewed Petition for Reinstatement Eligibility.

Pursuant to Article 14.4.b. of CFP Board's *Procedural Rules*, if the Commission denies Respondent's Renewed Petition, then the Commission must issue a revocation.¹⁰

Accordingly, the Commission **ORDERS** a **REVOCATION** of Respondent's CFP Board Certification and Trademark License; Respondent is permanently barred from applying for or obtaining CFP® certification.

Ordered by:

The Disciplinary and Ethics Commission
CFP Board
March 27, 2024

¹⁰ Pursuant to Article 14.4.c., CFP Board will publish a revocation in accordance with Article 17.7.