Financial Planner's Ethical Dominance

Jeffrey H. Rattiner
CPA, CFP®, MBA
Rattiner's Financial Planning Fast Track, Inc.
JR Financial Group, Inc.
(720) 529-1888
jeff@jrfinancialgroup.com
www.jrfinancialgroup.com

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#1:

- Define and discuss a financial planning engagement , material elements of financial planning process and the financial planning process

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#1:

Financial planning

- **The client's understanding and intent in engaging the certificant**
- **The degree to which multiple financal planning subject areas are involved**
- **The comprehensiveness of the data gathering**
- **The breadth and depth of the recommendations**

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#1:

Financial planning process

Establishing and defining the client-certificant relationship

Gathering client data including goals

Analyzing and evaluating the client's current financial status

Developing and presenting recommendations and/or alternatives

Implementing the recommendations

Monitoring the recommendations

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#1:
Financial planning subject areas
Financial statement preparation and analysis

Investment planning

Income tax planning

Education planning

Risk management

Retirement planning

Estate planning

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#1:
Discussion Items

#1: Definition of Services and Activities Provided under Financial Planning

#2: Number of Elements Performed During a Client Engagement

#3: Financial Planning Service Performed by Broker or CFP Professional

#4: Minimum Number of Financial Planning Subject Areas

#5: Third Party Implemention

Financial Planner's Ethical Dominance
Code of Ethics & Professional Responsibility
New Learning Objectives

LO#2: Analyze specific fact patterns to determine if a financial planning relationship exists

Example #1

Mrs. Garrett, a referral from an existing client, sets up a meeting with Mr. Ralph Winston, CFP®. At the meeting, Mrs. Garrett states that the purpose of her visit is to help her develop an education planning strategy for her son, James. In doing so, she states that her objective is to fund 4 years at a private university at an annual budget of $60,000. During the meeting she states that she is truly concerned because whatever amounts are earmarked and funded towards this education objective will directly impact her ability to currently save for retirement and her plans to purchase a vacation home. She also stated that funding this educational need is of paramount importance and everything else is secondary and can be put on hold, if necessary, in accomplishing this feat.

Financial Planner's Ethical Dominance
Code of Ethics & Professional Responsibility
New Learning Objectives

LO#2: Analyze specific fact patterns to determine if a financial planning relationship exists

Example #1 (continued)

As a result of Mrs. Garrett's priority for funding education, Mr. Winston collected financial information pertaining solely to this education objective.

Did Mr. Ralph Winston enter into a financial planning engagement with Mrs. Garrett?

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#2: Analyze specific fact patterns to determine if a financial planning relationship exists

Example#2

In her work as a CPA, Jennifer Boylston, CFP® was asked by her client, Ken Fitzpatrick, age 52, about strategies that he can employ to help him reduce his taxes this year. Ms. Boylston was engaged solely to provide tax preparation services for Mr. Fitzpatrick. After the tax return was completed, Ms. Boylston recommended that Mr. Fitzpatrick contribute the maximum amount to his IRA since even though he exceeded the income threshold, he was not covered by a qualified plan and thus could receive a tax deduction. Upon hearing that advice, Mr. Fitzpatrick opened up an IRA for the past year for the maximum amount allowable.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#2: Analyze specific fact patterns to determine if a financial planning relationship exists

Example #2 (continued)

Did Jennifer Boylston cross the line and enter into a financial planning engagement with Mr. Fitzpatrick?

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#2: Analyze specific fact patterns to determine if a financial planning relationship exists

Example#3

Beth Davis interviewed Daniel Smith, CFP® over the phone to see how he can help with her budgeting and cash flow concerns. Ms. Davis decided to hire him based on their conversation. Mr. Smith sent her an engagement letter emphasizing his help only with her cash management concerns which she signed and sent back including a payment representing half of the quoted fee.

When Ms. Davis arrived to the office, she brought with her only the last 12 months worth of checking account and charge account statements and future purchases she plans to make.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#2: Analyze specific fact patterns to determine if a financial planning relationship exists

Example#3 (continued)

During her office visit with Mr. Smith, he helped Ms. Davis with her cash flow management including budgeting. Mr. Smith then asked her a series of questions regarding her retirement, insurance, investments, and income tax concerns. After struggling with her answers, Ms. Davis determined that she needs help in all of these areas of which Mr. Smith obliged and said he would complete that segment next.

Based on the change of events, did Daniel Smith enter into a financial planning engagement?

Copyright 2018-JR Financial Group Inc./Rattiner's Financial Planning Fast Track, Inc. ® All Rights Reserved

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#3: Differentiate between Standards of Care set forth in Rules 1.4 and 4.5 of the Rules of Conduct, and apply each standard of care to specific factual situations.

Rule 1.4 *sets the baseline duty of care CFP® professionals owe at all times to clients: "place the interest of the client ahead of his or her own." That same rule sets forth a heightened duty of care for CFP® professionals who provide to clients financial planning or material elements of financial planning: "the duty of care of a fiduciary as defined by CFP Board." CFP Board's definition of fiduciary is: "One who acts in utmost good faith, in a manner he or she reasonably believes to be in the best interest of the client."*

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#3: Differentiate between Standards of Care set forth in Rules 1.4 and 4.5 of the Rules of Conduct, and apply each standard of care to specific factual situations.

Rule 4.5

In addition to the requirements of Rule 1.4, a certificant shall make and/or implement only recommendations that are suitable for the client.

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#3: Differentiate between Standards of Care set forth in Rules 1.4 and 4.5 of the Rules of Conduct, and apply each standard of care to specific factual situations.

Discussion Item #1: Needs Analysis and Suitability Issues

Discussion Item #2: Distinction between Financial Planning Services and Other Services

Discussion Item #3: Specific Service of Activity

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#4: Apply each Practice Standard set forth in the Financial Planning Practice Standards to a hypothetical financial planning engagement.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

Financial Planning Practice Standards

- **100 SERIES: Establishing and Defining the Relationship with the Client**
- 100-1 Defining the Scope of the Engagement . . . .
- **200 SERIES: Gathering Client Data**
- 200-1 Determining a Client's Personal and Financial Goals, Needs and Priorities . . . . . .
- 200-2 Obtaining Quantitative Information and Documents . . . .
- **300 SERIES: Analyzing and Evaluating the Client's Financial Status**
- 300-1 Analyzing and Evaluating the Client's Information . . . .

 17

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

Financial Planning Practice Standards

- **400 SERIES: Developing and Presenting the Financial Planning Recommendation(s)**
- Preface to the 400 Series . . . .
- 400-1 Identifying and Evaluating Financial Planning Alternative(s) . . . .
- 400-2 Developing the Financial Planning Recommendation(s) . . . .
- 400-3 Presenting the Financial Planning Recommendation(s) . . . .

 18

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

Financial Planning Practice Standards

- **500 SERIES: Implementing the Financial Planning Recommendation(s)**
- 500-1 Agreeing on Implementation Responsibilities . . . .
- 500-2 Selecting Products and Services for Implementation . . . .
- **600 SERIES: Monitoring**
- 600-1 Defining Monitoring Responsibilities . . . .

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

100 SERIES: Establishing and Defining the Relationship with the Client

Example: Jacque Ebersol has been doing financial planning for over ten years. With many satisfied clients he wanted to find a way to shorten the process. To reach this goal, prior to the first meeting he sent an outline of what a client can expect from him and what the client is expected to do. When Jacque and the client first meet, data gathering is the first order of business and Jacque often has to tell the client to drop off various financial and legal documents. Having worked with hundreds of clients over his career, he is also aware that virtually every client wants certain things, so to save time, he assumes all clients want those same things. Within a few months, Jacque noticed that his newer clients were not implementing their plans, and weren't even returning his phone calls.

What happened?

Financial Planner's Ethical Dominance
Code of Ethics & Professional Responsibility
New Learning Objectives

200 SERIES: Gathering Client Data

Example: Jack and Jill Waterpail have an estate in excess of $12 million. They also expect their retirement plans to provide more than double what they will need in retirement income in about three years when Jill retires. Since there is no assurance that the estate tax will continue to be at its current level, their CFP® professional has suggested they begin a substantial gifting program to their three married children and seven grandchildren. Even though their estate assets are earning much more than the annual gifts would require, they don't want to follow the planner's advice.

Why not?

Financial Planner's Ethical Dominance
Code of Ethics & Professional Responsibility
New Learning Objectives

300 SERIES: Analyzing and Evaluating the Client's Financial Status

Example: Planner Penelope Z. Swift has many years of experience and prefers to scan the quantitative data to get an idea where a client is financially and then focus on the qualitative issues. In the case of her client, Taki Swan, she was aware of substantial investments in his portfolio. What she failed to notice was that they were primarily, 90%, in the technology sector and over half of those were in the over the counter penny stock market. She then focused on Taki's desire to remain conservative in his investment portfolio. Her recommendations did nothing to address the lack of diversification and relatively high risk of his current investments. Further she failed to recognize that all of the life insurance he had to protect his family was through his employment, and he planned on leaving his job and starting his own consulting firm. She merely checked to make sure the amount of life insurance he had was adequate to meet his life insurance needs. In this case, Ms Swift failed to do an adequate analysis of Taki's quantitative data to recognize severe conflicts with the qualitative information.

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

400 SERIES: Developing and Presenting the Financial Planning Recommendation(s)

Example: Jerry Jackson just purchased the best financial planning software he could find. It included a 14-page data-gathering questionnaire and allowed him to create phenomenal presentations. He put together a fantastic plan for his new clients, Frank and Fran Friendly. When he sat down with them to go over the plan he was sure they would be as excited as he was. He started on the introduction page that reiterated what his firm was all about and described the entire financial planning process. The rest of the introductory section included neat graphs of the economy, percentages of people who retired financially secure and other useful information. Section Two was the fact-gathering questionnaire, which he quickly reviewed with them over the next 30 minutes. Section Three listed the Friendly’s qualitative goals and a discussion as to how they affected different portions of the plan.

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

400 SERIES: Developing and Presenting the Financial Planning Recommendation(s)

Example Continued: Next was a section on general retirement and estate planning that Jerry used to emphasize the importance of starting early. Finally at Section Five, Jerry got into the insurance planning section. He had some excellent comparative analysis diagrams and summaries regarding the policy options. He showed an annual income and expense flow chart that spelled out how life insurance proceeds would be distributed. Page 23 of that section showed the breakdown of the life insurance needs analysis. Pages 24 through 27 showed comparisons of various policy combinations that would provide the needed coverage. Section Six began with “the Friendlys fell asleep”.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

400 SERIES: Developing and Presenting the Financial Planning Recommendation(s)

Example Continued: Jerry realized that people often use a financial planner because they know they need to deal with these issues, but are not particularly excited about them. They rescheduled the appointment, Jerry moved the unnecessary information to a back up binder that the Friendly's could take or leave and then presented them with a six-page summary with lots of white space that clearly told them what they wanted and needed to know. The plan is now on its way to full implementation.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

500 SERIES: Implementing the Financial Planning Recommendation(s)

Example: Planner Gray worked hard to develop a comprehensive financial plan for Dr. Conway. The good doctor told planner Gray that he would get right on the implementation. Eighteen months later when planner Gray met with Dr. Conway for his annual plan review, only a couple of minor parts had been implemented. Dr. Conway explained that he was just too busy, and had put off the meeting for six months because he was embarrassed that he hadn't done more. It isn't because Dr. Conway isn't smart enough to take the steps, or even understand what needed to be done. It just isn't what he wants to be doing. In a case like this, planner Gray needed to be much more involved in keeping Dr. Conway on track to get the plan in place.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

600 SERIES: Monitoring

Example: Karen and Stan had a well-developed financial plan. They established education funds for their two children. They were funding their retirement plans and had an emergency fund in place. Their wills and insurance programs were current. Then Karen found out she was pregnant with their third, and quite unexpected child. Their financial plan needed some modification. Shortly after that good news, Karen's uncle died and left her a piece of income-producing property in another state. The property basically made enough to pay for its taxes with a little left over, but it became another reason that their plan needed a revision. Their neighbor, Carlton, used the same planner and also had a great plan. Then, his job was eliminated and he started his own consulting firm. This one change created several reasons for review and revision of his plan.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO#5:Identify the information that must be disclosed to the client in writing by a CFP® professional who is engaged in a financial planning relationship or providing material elements of financial planning.

Rule 2.2 *identifies information that must be disclosed by a CFP® professional to all clients and prospective clients, regardless of whether the services to be provided rise to the level of financial planning. When the services do rise to the level of financial planning or material elements of financial planning, section (e) of Rule 2.2 requires that the disclosures be made in writing.*

Copyright 2018-JR Financial Group Inc./Rattiner's Financial Planning Fast Track, Inc. ® All Rights Reserved

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

LO #6: Define the required information that must be disclosed to clients and prospective clients, when that information must be disclosed, and apply each disclosure requirement to specific factual situations (This includes but is not limited to the compensation and conflict-of-interest disclosure requirements set forth in Rule 2.2 of the *Rules of Conduct* and Practice Standards 100-1, 400-3, and 500-1)

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

- Rules 1.2 and 2.2 require CFP® professionals to disclose certain information to clients or prospective clients. The Rules allow for any form of delivery to clients. Under Rule 1.2, if the disclosures are made in writing, the CFP® professional must encourage the prospective client or client to review the information and offer to answer any questions from the client or prospective client. CFP Board believes best practice is to disclose such items upon request; before any agreement is signed; or prior to any transaction where the client is expected to pay for a service or product. Notifying the client or prospective client that the disclosure information can be found on an employer's Web site probably does not meet the standard of care required under Rule 1.4, which obligates the CFP® professional to place the client's interest ahead of the CFP® professional's interest.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

- CFP® professionals involved in client engagements that do involve financial planning or material elements of financial planning must make all of the disclosures listed in Rule 2.2, and they must also make those disclosures in writing. The written disclosures need not be a single newly-created document; the written disclosures may be made through multiple documents or through existing disclosure documents, such as Form ADV, that are used to make disclosures in compliance with state or federal laws, or the rules or requirements of any applicable self-regulatory organization.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

Example:

Nancy Nielson, CFP® is a very efficient planner. She has a system whereby she assesses her client's financial situation and develops a series of recommendations as quickly as possible.

When meeting with clients, Nancy provides an engagement letter that specified who the parties are, services to be provided, and termination privileges by either party. Nancy does not state the specific length of the engagement, but instead indicates that the engagement will be performed as quickly as possible. She assures her clients it will be a couple of weeks max, but does not get any more specific than that.

Did Nancy commit a violation here?

Financial Planner's Ethical Dominance
Code of Ethics & Professional Responsibility
New Learning Objectives

Disclosure of Compensation

Example: Tom Higgins has been a large producer for *Take-It-All-In Financial, Inc*. Tom has been threatening his B/D that he may take his future business elsewhere. *Take-It-All-In Financial*, Inc. was concerned about his ability to receive higher payouts elsewhere, and immediately renegotiated a deal to have a series of larger bonuses and trailers be made payable to him. The essence is the longer Tom keeps those investments and insurance policies on the B/D's books, the larger the commission percentage he will receive.

When Tom meets with his financial planning clients, he just makes a general statement that he is paid by his B/D in a different direction. Has Tom fully disclosed his compensation package?

Financial Planner's Ethical Dominance
Code of Ethics & Professional Responsibility
New Learning Objectives

Conflict of Interest Disclosures

Example: Paul Loman, CFP, has moved from industry to become a comprehensive financial planner. He is looking to build up his financial planning clientele and is aggressively pursuing clients through many types of marketing methods.

Upon meeting with prospect Jennifer Jannaro, she asks Paul to describe any conflicts of interest he may represent. Paul responded that he will do everything in the best interests of the client. However, Paul sits on the Board of an insurance company and an investment firm of which he does not disclose either and sends a lot of business to those companies.

Has Paul committed any violation here?

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

100-1: DEFINING THE SCOPE OF THE ENGAGEMENT

- *The financial planning practitioner and the client shall mutually define the scope of the engagement before any financial planning service is provided.*
- Prior to providing any financial planning service, the financial planning practitioner and the client shall mutually define the scope of the engagement. The process of "mutually-defining" is essential in determining what activities may be necessary to proceed with the engagement.
- This process is accomplished in financial planning engagements by:

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

100-1: DEFINING THE SCOPE OF THE ENGAGEMENT

- Identifying the service(s) to be provided;
- Disclosing the practitioner's material conflict(s) of interest;
- Disclosing the practitioner's compensation arrangement(s);
- Determining the client's and the practitioner's responsibilities;
- Establishing the duration of the engagement; and
- Providing any additional information necessary to define or limit the scope.

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

400-3: PRESENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

- *The financial planning practitioner shall communicate the recommendation(s) in a manner and to an extent reasonably necessary to assist the client in making an informed decision.*
- When presenting a recommendation, the practitioner shall make a reasonable effort to assist the client in understanding the client's current situation, the recommendation itself, and its impact on the ability to meet the client's goals, needs and priorities. In doing so, the practitioner shall avoid presenting the practitioner's opinion as fact.

 37

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

400-3: PRESENTING THE FINANCIAL PLANNING RECOMMENDATION(S)

The practitioner shall communicate the factors critical to the client's understanding of the recommendations. These factors may include but are not limited to material:

- Personal and economic assumptions;
- Interdependence of recommendations;
- Advantages and disadvantages;
- Risks; and/or
- Time sensitivity

 38

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

500-1: AGREEING ON IMPLEMENTATION RESPONSIBILITIES

- *The financial planning practitioner and the client shall mutually agree on the implementation responsibilities consistent with the scope of the engagement.*
- The client is responsible for accepting or rejecting recommendations and for retaining and/or delegating implementation responsibilities. The financial planning practitioner and the client shall mutually agree on the services, if any, to be provided by the practitioner. The scope of the engagement, as originally defined, may need to be modified.

 39

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

500-1: AGREEING ON IMPLEMENTATION RESPONSIBILITIES

The practitioner's responsibilities may include, but are not limited to the following:

- Identifying activities necessary for implementation;
- Determining division of activities between the practitioner and the client;
- Referring to other professionals;
- Coordinating with other professionals;
- Sharing of information as authorized; and
- Selecting and securing products and/or services.

 40

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

Example: Rodney Wright has a fee-only financial planning practice. He designs a comprehensive financial plan only for the client. He does not implement any product follow-through and does not manage money. He feels this approach makes him more independent when providing client implementation of his recommendations.

During the preliminary phase of the engagement, Rodney alerts the client that he will be providing a “comprehensive road map” that any competent financial planner should be able to follow and therefore assist with the overall implementation. Rodney does not provide a listing of advisors to the client because he feels that would damage his independence.

Does Rodney take an appropriate approach in performing comprehensive financial planning?

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

- **2016 Instructor and Author Eligibility Requirements for CFP Board Ethics CE Programs**
- *Effective January 2016, instructors of Ethics CE programs registered with CFP Board must meet the following requirements.*
- *The instructor and author of an Ethics CE program must:*
- Hold current CFP® certification, with all CFP Board continuing education requirements up-to-date and all CFP Board renewal and other fees paid in full.
- Have held CFP® certification for 5 years or more.

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

- **2016 Instructor and Author Eligibility Requirements for CFP Board Ethics CE Programs**

- Not be the subject of a pending investigation by CFP Board or any federal or state regulator.
- Not have been the subject of a CFP Board discipline (i.e. private censure, public letter of admonition, or suspension) received within the past five years.
- Complete CFP Board ethics instructor and author webinar.

- Individuals who do not meet all of the above criteria may submit a Policy Exception Request.

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

Amendments to

- **Appeal Rules and Procedures**

- **Fitness Standards**

- **Bankruptcy**

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

THE PRINCIPALS

A way to remember the principles is through the saying, "I Only Care for Cash Paid Daily". The principles correspond to the first letter of each word.

The seven principles are:

- **I**ntegrity
- **O**bjectivity
- **C**ompetence
- **F**airness
- **C**onfidentiality
- **P**rofessionalism, and
- **Diligence**

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility New Learning Objectives

CONTENTS of the Rules of Conduct

- **1. Defining the Relationship with the Prospective Client or Client**
- **2. Information Disclosed to Prospective Clients and Clients**
- **3. Prospective Client and Client Information and Property**
- **4. Obligations to Prospective Clients and Clients**
- **5. Obligations to Employers**
- **6. Obligations to CFP Board**

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #2:
- Rule 1.4
- - Harmon's financial planning practice was fee and commission. Julianna, a referral to Harmon, inherited some money from her grandmother and wanted to put it away for retirement, but not in an IRA. She wanted to avoid taxes on any earnings until retirement. Even with over 20 years from her expected retirement, she was not comfortable with the use of equities. She and Harmon discussed a number of options and decided on a Single Premium Deferred Annuity. They looked at two VAs. Aardvark Life offered 8% the first year as an incentive, adjusted annually, and with a guaranteed 2.5% minimum interest rate. It paid a straight 5% commission. Aardvark Life had one 2nd level rating, one third level rating and two 5th level ratings from four different rating agencies. Boring Life offered 7.25% for the first three years and a minimum guaranteed interest rate of 3.5%. It paid a 2% commission each year for the first five years if the annuity stayed in place; total commission of 10%. Boring Life had two top ratings, one 2nd level rating and 1 third level rating from the same four rating companies as Aardvark. In reviewing the last 10 years worth of payouts for the two companies, Boring Life seems to average a higher return, but also has higher surrender charges for seven years. Harmon recommended using Boring Life.
- How did Harmon do?

 47

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #3:
- Rule 1.2
- - Carlton Clinebeck, CFP®, met with Seth Watson to discuss a possible financial planning engagement. In discussing Seth's needs and objectives, it was clear that there wasn't much Carlton could do other than to refer him to an estate planning lawyer to do some fine tuning of his estate plan. However, Seth was moderately wealthy and the fee for doing nothing more than putting the organization of his financial life on paper could bring in a very nice fee. The work that he would do wouldn't likely improve Seth's financial position, and it would be the lawyer who would take care of the document preparation, but Carlton thought that Seth might be more comfortable just seeing it all on paper, so he suggested that he and Seth enter into a full financial planning relationship. Carlton gave him all of the disclosure information, laid out the fee schedule and provided a list of documents and information to be brought to the next meeting.
- How did Carlton do?

 48

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #4:
- Rule 2.1
- - Alec, Anne, Andrew, and Abigail all went through their financial planning studies together. All four worked for one of the national companies that use financial planning as an entrée to selling mutual funds and insurance. They became good friends and found that they worked well together. Three years after becoming certified, they decided they wanted to start their own financial planning firm. The name was easy: “AAAA Financial Planning.” They spent nearly two years working on their business plan. On the fifth anniversary of becoming certified, they opened the doors. Their company brochure had all of the required disclosure material clearly set forth. The cover proudly touted their 20 years of financial planning experience and ability to handle “all of your financial planning needs.” The same information was on their business cards and mailings they sent to all of their previous clients.
- What’s wrong with this picture?

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question 5:
- Rule 2.2
- - Davis and Karen share a financial planning practice. They are also partners in a number of real estate investments – both having real estate broker’s licenses, they own a mortgage company, and have a seasonal tax practice with a CPA they know. Their disclosure information includes references to broad based, fee-only financial planning, real estate investments, credit management and tax advice. Prospective clients also learn when Davis and Karen became certified and see a list of organizations for which they have been speakers.
- How is their disclosure?

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #6:
- Rule 2.2
- - Marlene Wisnant is a CFP Board certificant who specializes in the financial planning issues of divorce. She is in a small planning firm of five certificants. She agreed to do financial planning for Joan Martin who had just started her divorce proceedings. Between their first meeting and the fact finding meeting Marlene found out that one of the other certificants, with whom she did a great deal of joint work, had agreed to work with Joan’s soon to be “ex.”
- What is Marlene’s obligation to Joan at this point?

 51

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #7:
- Rule 2.2
- - Billie Swan, CFP®, was employed by Dollar & Sense Financial Planning, LLC. She is paid well in that most of the clients are fairly high end and the average client fee is in excess of $10,000 initially, with a minimum $5,000 retainer. The firm also provides asset management services, estate planning, legal document preparation and income tax preparation. A lot of Billie’s friends could use some help with their financial planning, and they really want her help because she is clearly competent in the work she does. Her friends understand that this is her profession, and other than an offhanded question now and then they feel they need to pay her for her expertise. She has a small, word of mouth practice on weekends doing financial plans for her not so wealthy friends.
- Does she have an obligation to tell her employer about this?

 52

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #8:
- Rule 2.2
- - Steve, Karl, and Suzanne, all CFP Board certificants, agreed to establish a financial planning partnership. They each put together a list of material information about their licensing, legal status, credentials, and all of the rest of the information that they needed to provide to have full disclosure to one another. Karl, however, chose to leave out some information. Twelve years earlier, he was in the middle of a divorce and made some very bad financial choices. That led him to do some stupid things with client’s money. He lost his securities license for two years, his insurance license for a year, and was fined over $100,000. All of this happened in another state, and five years ago, when it was all over, including getting his finances straight after paying the fine, he moved to the city where he met Steve and Suzanne. Since it was over and done with, he didn’t think it was necessary to tell them about it.
- Is he right: is it okay not to tell Steve and Suzanne about this dark period?

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #9:
- Rule 3.1
- - Markus Weimer, CFP® was notified by CFP Board that it received a complaint from one of his clients regarding significant questions regarding his adherence to the *Code of Ethics* and that the Disciplinary and Ethics Commission was investigating the allegations. He made copies of pertinent portions of the client’s file to give to the Disciplinary and Ethics Commission to review while he explains his position and defends himself.
- Is this permissible disclosure of confidential information?

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #10:
- Rule 3.1
- - David, Scott and Bob started a financial planning partnership 12 years ago. Their skills and interests seem to mesh pretty well at that time. Their business did well. Scott, at age 20 got into financial trouble and had embezzled money from his employer. David and Bob knew about this unfortunate experience. It happened fifteen years before they met, and Scott had served some time in jail and repaid all of the money, plus interest. At Scott’s suggestion, he wasn’t allowed to have access to any company or client funds. Since this history was not relevant to the professional relationship that knowledge was kept among the three of them. Over time their interests and focus changed. David realized that he didn’t fit with the firm anymore, so he exercised his option to sell his share of the partnership to Scott and Bob, and left. He joined a couple of certificants he had known for many years who had been competitors of his prior firm. When David moved, he sent a letter to all of the clients with whom he had worked and told them of the change. Many of them talked to him and asked why he left the other firm. He explained that he wanted to move in a different direction than the firm was going.
- Would it have been permissible to divulge the information about Scott?

 55

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #11:
- Rule 3.3
- - Mary Jane has had a financial planning practice for eight years. Part or her practice involved tax return preparation, One of her planning and tax clients, Jules, works in an auto body shop as a painter. He makes a good income, but like everyone else wants a little extra. For years he collected fountain pens. They were cheap for many years because no one else seemed to be collecting them. He still finds them at garage and estate sales for bargain prices. He has started selling them through an internet auction. The first year he sold a few and took in about $150. He didn’t even mention it to Mary Jane. Last year he was busy and made about $400 per month more than he paid for the pens. When he asked Mary Jane what he should do about this income, she said that it seemed to be merely a hobby and not to worry about it.
- Is there any Rule violation here?

 56

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #12:
- Rule 3.8
- - Larry’s financial planning practice involved asset management. He actively managed client money in three families of mutual funds. All were load funds, but since he controlled so much money in them, the fund companies agreed to sell the shares to him with no load. Since the money was, for all practical purposes, invested in something all of the time, Larry didn’t think it made sense to set up and pay for a checking account merely for the purpose of passing client money from the clients to the funds and back. He used his business checking account for everything. He paid his staff from it, rent, utilities, office supplies, travel, everything related to the business. He also deposited client checks in it, and, without fail, within one business day, transferred the client money into one fund or more, even if it was merely a money market fund.
- How’s he doing?

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #13:
- Rule 3.10
- - Carol Milder, CFP®, attempted to work with Bill and Carlie Pnastry for over a year. They missed appointments, didn’t provide the requested information, gave conflicting information, and changed their minds every time she spoke with them. She was very patient and did everything she could think of to make the relationship work. As mid-November came around, and her year end planning sessions were the heaviest, Bill and Carlie started calling and demanding that she put their file in order and send it to them immediately because they needed it to do their taxes. Carol had offices in two cities, and she was not where the Pnastry’s file was. She also knew that nothing she had was necessary for them to do their taxes, and she had only copies of records. Her response was that she was working in her office on the other side of the state and that when she got back to the other office, she would mail their file to them. The response made them angry and they demanded that she have it couriered to them the next day. She reiterated what she was able to do, and at the receiving end of a hail of obscenities, hung up the phone.
- Was Carol in violation of any rule?

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #14:
- Rule 4.2
- - Barbara Adams, CFP®, has a great family financial planning practice. She works primarily with middle income families. In order to make it possible for them to pay for her services, she provides each family with a book and CD of standard legal forms so they can put together their own trusts, wills, powers of attorney, etc. She makes sure she tells them she isn't a lawyer and can't prepare any forms for them, but she also answers any questions they may have, to the best of her knowledge.
- Is this approach acceptable?

 59

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #15:
- Rule 4.2
- - Charmaign's financial planning practice is broad based. The principal of her firm is a registered investment advisor. Her primary background, before earning her CFP® certification was as a series 6 licensed registered representative for a mutual fund company. She is still a registered rep and most of her CE courses deal with investment planning, asset management and taxes. Jake and Julie Jonson are new clients of hers. She reviewed their financial information and made a number of recommendations. She included specific recommendations about investments, insurance, trusts and estate planning issues.
- Did she meet the requirements?

 60

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- <u>Question #16:</u>
- <u>Rule 4.4</u>
- - Wendy, a CFP Board certificant provides broad based financial planning. One of her clients asked her about an investment property he was considering in a nearby suburb. Wendy had a bad experience with a piece of real estate in that suburb about 10 years ago and so she told her client to look somewhere else.
- Does this comply with the rules?

Financial Planner’s Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- <u>Question #17:</u>
- <u>Rule 4.6</u>
- - Stephanie Bramel, CFP®, started her own financial planning firm 12 years ago. She now had eight other CFP™ certificants working for her. Her management style was essentially hands off. She figured all of her certificants had earned their certification and deserved to be treated as professionals. So it came as a big surprise when she was notified by the Disciplinary and Ethics Commission about allegations that a certificant who worked for her had been involved in serious breaches of the *Code of Ethics*.
- Did Stephanie violate any code provision?

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #18:
- Rule 5.1
- - Nadia Smith, CFP® is with one of the large financial services firms. While working with the large company, she attends numerous meetings and training sessions, few of which are preceded with notices that information divulged in the meeting is confidential and not to leave the company. Some of these involved the methods used to determine planning fees, marketing methods, sales methods, and planning approaches. Nadia was constantly amazed that the company thought any of the information was unique to them, most of it seemed logical. Through her local association she has developed some good friendships with other certificants. Some of them were interested in how the large firm was different from the ways they were working. Some of the questions touched on areas her firm said were confidential. Since Nadia thought anything she related was either common knowledge or common sense, she wasn't concerned about giving details.
- Under these circumstances, has Nadia done anything wrong?

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #19:
- Rule 6.2
- -DeAnn worked very hard to prepare for her certification exam. The *Code of Ethics* and Practice Standards, were so full of details. She was glad that she only had to learn it once. All she wanted to do was get through the exam and then she could forget all these shalls and shall nots.
- Is she right?

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #20:
- Rule 6.5
- - Philip Scatter, CFP® was proud of his certification. He spent five years in securities sales before studying for and passing the certification exam. With his new proof of knowledge and expertise he jumped right in and started accepting financial planning clients, just as his company wanted. As he reviewed the materials brought in by clients, he would sometimes see nice looking insurance needs analysis presentations along with various insurance policies. In spite of what his study materials had tried to do to sway him, he knew the truth. His most common comment was: "Look at this fancy report. Unfortunately, these guys only put it together to sell you policies that made them the most money. I'm confident I can get your insurance plan straightened out."
- How professional is Philip's demeanor in this case.

Financial Planner's Ethical Dominance Code of Ethics & Professional Responsibility Game Questions

- Question #21:
- Rule 6.2
- - Marley has a great financial planning practice. He sees 20 clients a week, all fee paying, sells investments, insurance, and does tax returns. As expected, 60 - 70 hour weeks are the norm. He is so busy that he doesn't have a lot of time to read or take CE courses. He receives e-mails and mailings about CE programs that can provide his necessary hours, at bargain prices. As the deadline approaches for his CE requirements, he starts calling on these folks and finds that he can get all of his hours by reading the materials sent and taking a quiz that is intended to verify that he read all of the material. One of the reps told him that most people can get 10 hours worth of credits in about two and a half hours with each of their programs. Knowing he can't possibly find all the CE courses to attend before his time runs out, he signs up for three "courses" that will provide all of his hours.
- Is Marley meeting the requirements of the rules that apply to the principle of Competence?

Financial Planner's Ethical Dominance
Code of Ethics & Professional Responsibility
Game Questions

- Question #22:
- Rule 6.5
- Hal earned his certification in 1978. He is quite proud of the fact that he was an early member of the profession. With a thriving practice and great respect from the financial planning community, he was often asked for interviews about financial planning topics. In one interview he was asked about the difference in certification requirements today compared to when he became certified. He told the interviewer that in his opinion CFP Board candidates of the last 10 years had a much more difficult time qualifying than those who came earlier.
- He emphasized that the long-standing CFP® certificants he knows have worked hard to improve the image of the CFP® marks and to expand their own knowledge. The profession has matured over the years and refined its focus and image a number of times. Hal told the interviewer that he was comfortable with the way CFP Board had focused on the activities of the profession and had worked to create practical guidelines for CFP Board certificants. He stated that he would prefer it if the CFP Board made it more clear as to what a financial planner does. Right now, financial planners operate in so many different ways and with so many different focuses that it is hard to point to a specific set of activities and say that those are the things that make someone a financial planner. He said that it probably wasn't possible, but that it was something he thought about a lot.
- Has a violation taken place here?

Financial Planner's Ethical Dominance

Jeffrey H. Rattiner
CPA, CFP, MBA
Rattiner's Financial Planning Fast Track, Inc.
6410 S. Quebec St.
Centennial, CO 80111
Tel: (720)529-1888; Fax: (720)529-9888
jeff@jrfinancialgroup.com
www.jrfinancialgroup.com