



AMERICAN ACADEMY of ACTUARIES

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NEWS RELEASE

FOR IMMEDIATE RELEASE

March 23, 2020

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Please note that there are two actuaries with the same first and last name in New York. The subject actuary in this Notice of Discipline is not Michael Lawrence Frank of Aquarius Capital. The Academy regrets any confusion.

American Academy of Actuaries Issues Discipline Notice

WASHINGTON—The American Academy of Actuaries announced that the following discipline action became effective on March 23, 2020.

Notice of Public Discipline (Effective Date March 23, 2020)

A Disciplinary Committee of the American Academy of Actuaries (“Academy”), acting in accordance with the Academy’s Bylaws, has reviewed the findings and a recommendation from the Actuarial Board of Counseling and Discipline (“ABCD”) regarding Michael W. Frank. Based on the decision of the Disciplinary Committee, the Academy suspends Mr. Frank from membership for a period of one year for materially failing to comply with Precepts 1, 3, 4, and 8 of the Code of Professional Conduct in connection with work he performed concerning a small private pension plan.

Precept 1 requires that an actuary “act honestly, with integrity and competence, and in a manner to fulfill the profession’s responsibility to the public and to uphold the reputation of the actuarial profession.” Annotations 1-1 and 1-4 amplify that duty by respectively requiring an “Actuary to perform Actuarial Services with skill and care” and refrain from engaging “in any professional conduct involving dishonestly, fraud, deceit, or misrepresentation or commit any act that reflects adversely on the actuarial profession.” Precept 8 requires that actuaries “take reasonable steps to ensure that [their] services are not used to mislead other parties.” The Disciplinary Panel concluded that Mr. Frank materially violated Precepts 1 and 8 with respect to work for the private pension plan in question in the following respects:

(MORE)

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- Certifying that he completed the 2009 Schedule SB for the pension plan on October 15, 2010 and that he completed the 2010 Schedule SB for the pension plan on October 15, 2011 when in fact he completed and signed both on February 8, 2013;
- Failing to reconcile discrepancies in the data provided to him concerning various aspects of the plan;
- Making incorrect calculations of Effective Interest Rates and lacking know-how and systems necessary to make accurate calculation of Effective Interest Rates;
- Failing to confirm or substantiate deposit dates listed in the Schedule SBs;
- Failing to prepare Adjusted Funding Target Attainment Percentages for the plan; and
- Failing to communicate that the plan was subject to benefit restrictions or to advise that notices to the plan participants should be prepared and distributed.

Precept 3 requires an actuary to “ensure that Actuarial Services performed . . . satisfy applicable standards of practice.” Precept 4 requires that Actuarial Communications be “clear and appropriate to the circumstances and [their] intended audience, and satisfy applicable standards of practice.” The Disciplinary Panel concluded that Mr. Frank materially violated Precepts 3 and 4 by failing to make the disclosures required by ASOP No. 41 and by failing to investigate data inconsistencies in the information provided to him in violation of ASOP No. 23.

Based upon the foregoing, Mr. Frank’s membership in the Academy is suspended for one year effective March 23, 2020. In addition, as a condition of reinstatement, the Academy requires that Mr. Frank receive counseling from the ABCD and initiate at least four requests for guidance from the ABCD on work performed during his period of suspension.

For more information, please contact David Mendes, assistant director of communications for public affairs at the American Academy of Actuaries, at 202.785.7872. For more information on the American Academy of Actuaries, please visit www.actuary.org.

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The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.