



Article from

The Actuary

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Issue 5

Notice of Disciplinary Determination

ON MAY 5, 2015, the Joint Disciplinary Council (JDC) convened a Disciplinary Panel to review the actions and testimony of Kenneth P. Shapiro, FSA, MAAA, in connection with his services as an expert witness in 2013. The JDC Disciplinary Panel determined that Mr. Shapiro should be disciplined for material violations of Precepts 1, 2, 3 and 12 of the *Code of Professional Conduct (Code)*.ⁱ Based on the determinations of the JDC Disciplinary Panel, and pursuant to the Society of Actuaries' (SOA) Bylaws, the SOA has suspended Mr. Shapiro's membership in the SOA for a period of one year, effective July 28, 2015.

Precept 1. Mr. Shapiro materially violated Precept 1 of the *Code* when he failed to perform professional services as an expert witness with appropriate skill and care. In his report, Mr. Shapiro incorrectly stated that the only basis allowed by Congress for determining the funded status of a retirement plan was using the segment rates under the Internal Revenue Code § 430, as modified by the Moving Ahead for Progress in the 21st Century (Map 21 rates). Mr. Shapiro's expert report reflected a mistaken understanding of the minimum funding rules.

Precept 2. Mr. Shapiro also materially violated Precept 2 of the *Code*. Mr. Shapiro admitted that he issued statements of actuarial opinion even though he had not met the applicable requirements for continuing education prior to performing such services. Mr. Shapiro incorrectly believed that his retirement status exempted him from meeting the continuing education requirements for issuing statements of actuarial opinion.

Precept 3. Mr. Shapiro materially violated Precept 3 of the *Code*, which requires an actuary to observe applicable Actuarial Standards of Practice (ASOPs). The expert testimony provided by Mr. Shapiro did not conform to ASOP Nos. 4 and 17.

- With respect to ASOP No. 4, *Measuring Pension Obligations and Determining Pension Plan Costs or Contributions*, Mr. Shapiro incorrectly asserted that the Map 21 rates provided the only appropriate basis for determining the plan's funded status for all purposes, and not just for purposes of determining the minimum required contribution for a year.
- In his testimony, Mr. Shapiro stated that using a methodology other than the one he proposed violated "actuarial practices and actuarial theory." His testimony did not conform to ASOP No. 17, *Expert Testimony by Actuaries*. ("When the actuary testifies concerning other relevant testimony, including opposing testimony, the actuary should testify objectively, focusing on the reasonableness of the other testimony and not solely on whether it agrees or disagrees with the actuary's own opinion.")

Precept 12. In connection with his expert testimony, Mr. Shapiro wrongfully used the membership designations for the American Academy of Actuaries and the Conference of Consulting Actuaries, even though he was not then a current member of those organizations.

All members of the SOA are reminded of their responsibility to follow the *Code of Professional Conduct*.

ⁱ **Precept 1:** An Actuary shall 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.

Precept 2: An Actuary shall perform Actuarial Services only when the Actuary is qualified to do so on the basis of basic and continuing education and experience, and only when the Actuary satisfies applicable qualification standards.

Precept 3: An Actuary shall ensure that Actuarial Services performed by or under the direction of the Actuary satisfy applicable standards of practice.

Precept 12: An Actuary shall make use of membership titles and designations of a Recognized Actuarial Organization only in a manner that conforms to the practices authorized by that organization.
