

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 86905841
For the mark CFS INVESTMENTS
Published in the Official Gazette on May 10, 2016

CFS Investment Advisory Services, L.L.C.
vs.
New York Community Bancorp, Inc.

09/07/2016 DJEFFCDA 00000001 86905841

01 FC:6402

300.00 DP

NOTICE OF OPPOSITION

by

CFS Investment Advisory Services, L.L.C.

a Limited Liability Company organized and existing under the laws of

the State of New Jersey and having a business address at

97 Lackawanna Avenue, Suite 101

Totowa NJ 07512

The above-identified Opposer believes that it will be damaged by registration of the mark shown in the above-identified application, and hereby opposes the same.

The grounds of opposition are as follows:

The Parties

1. CFS Investment Advisory Services, L.L.C. ("Opposer") is a Registered Investment Advisor. It offers inter alia the services of financial planning for retirement and financial consulting. Opposer was founded in 1989. Before January 1, 1998 Opposer operated as a corporation named CFS Incorporated and later as a partnership named



09-02-2016

CFS Investment Advisory Services; effective January 1, 1998 Opposer became a limited liability company operating under the name of CFS Investment Advisory Services, L.L.C. From that date to the present, Opposer has remained a limited liability company and has continuously operated under the name of CFS Investment Advisory Services, L.L.C.

2. New York Community Bancorp, Inc. ("Applicant") is a bank. It offers inter alia the services of financial planning for retirement and financial consulting. Applicant has branch offices in New York, New Jersey, Florida, and Arizona. One of Applicant's branches is in Fairfield, New Jersey, less than five miles away from Opposer's office, and another of Applicant's branches is in West Caldwell, New Jersey, less than 7 miles away from Opposer's office.

The Opposer

3. Opposer is well-known. Prestigious publications regularly classify Opposer as one of the best financial advisors in the United States. For example:

- a. The Financial Times Ltd., a highly-reputed daily business and financial newspaper published in London and distributed worldwide, compiles two exclusive lists of elite financial advisors in the United States: the FT 300, which it considers the 300 top registered investment advisors in the United States; and the FT Top 401 Retirement Advisors, which it considers the 401 top advisors to corporate defined contribution plans in the United States. Opposer is included in the FT 300 list

for 2015 and 2016 and in the FT 401 list for 2015, and Opposer has been advised that it will be included in the FT 401 list when that list is published later this year.

b. Barron's, a well-regarded weekly business and financial newspaper published in New York City, compiles Barron's Top 1,200 Financial Advisors, which Barron's considers to be the 1,200 top financial advisors in the United States. Opposer has been included in Barron's Top 1,200 list for the years 2011, 2012, 2013, 2014, 2015, and 2016.

4. As a result of the quality of its services and its recognition by prestigious publications as one of the best financial advisors in the United States, Opposer has grown rapidly. For example, as of December 31, 2012, Opposer had almost \$516 million under management. Opposer's business has continuously expanded and as of the date of this Notice of Opposition, Opposer manages more than \$800 million, a growth rate exceeding 15% per year.

5. Opposer has customers in twenty-five states, and more particularly has customers in the states of New York, New Jersey, Florida, and Arizona (where Applicant has branch offices).

6. Opposer, as a Registered Investment Advisor, renders retirement financial planning services to its individual clients. Opposer also offers a wide range of financial consulting services to individuals and businesses.

The Marks Involved in this Opposition

7. Applicant seeks to register CFS INVESTMENTS for the following services: FINANCIAL PLANNING FOR RETIREMENT and FINANCIAL CONSULTING.

8. Since 1989, Opposer has always used a CFS-formative trademark in commerce in connection with the services of FINANCIAL PLANNING FOR RETIREMENT and FINANCIAL CONSULTING. Specimens of Opposer's CFS-formative trademarks are attached as Exhibit A. On information and belief, Opposer's continuous use in commerce of its CFS-formative trademarks began long prior to Applicant's use of its CFS INVESTMENTS mark. Since 1989, and continuing to the present, Opposer has marketed its FINANCIAL PLANNING FOR RETIREMENT and FINANCIAL CONSULTING services using marks that feature the initial letters "CFS", and specifically using the marks shown in Exhibit A. By virtue of its long and continuous usage of its CFS-formative trademarks in commerce in connection with FINANCIAL PLANNING FOR RETIREMENT and FINANCIAL CONSULTING services, Opposer has built up valuable goodwill in its CFS-formative trademarks.

9. By virtue of the goodwill that Opposer has built up in its CFS-formative trademarks, the marketplace recognizes "CFS INVESTMENTS" to refer to Opposer rather than to Applicant. A Google search of the words "CFS INVESTMENTS" returns three references to Opposer before a reference to Applicant appears (see Exhibit B), even though Opposer has not paid Google for priority placement in its search results.

Likelihood of Confusion

10. Applicant's CFS INVESTMENTS mark is confusingly similar to Opposer's CFS-formative trademarks, in that:

- a. the letters "CFS" form the dominant feature of Applicant's CFS INVESTMENTS mark as well as the dominant feature of all of Opposer's CFS-formative trademarks;
- b. "CFS INVESTMENTS" in Applicant's mark is almost identical to the "CFS INVESTMENT" portion of Opposer's CFS INVESTMENT ADVISORY SERVICES mark included in Exhibit A; and
- c. Applicant and Opposer are competitors, in that both offer FINANCIAL PLANNING FOR RETIREMENT and FINANCIAL CONSULTING services to retail customers in the states of New York, New Jersey, Florida, and Arizona, and both sell IRA accounts and 529 plans to their customers.

11. The words INVESTMENTS and INVESTMENT appear ubiquitously in financial service marks and by themselves have little distinguishing function. But because Applicant's mark as well as all Opposer's CFS-formative marks begin with the distinctive letters "CFS", persons in the market for FINANCIAL PLANNING FOR RETIREMENT services and FINANCIAL CONSULTING services who encounter the herein-involved marks in the marketplace will likely come to believe that Applicant is the source of Opposer's services, or vice versa, or that Applicant sponsors Opposer's services, or vice versa, or that Applicant and Opposer are connected or related. There is in fact no relationship

between Applicant and Opposer and all such beliefs would constitute marketplace confusion.

12. Because Applicant's and Opposer's marks are highly similar, and because Applicant and Opposer use those marks to sell identical services to retail customers in the same geographical areas, there is a substantial likelihood of marketplace confusion between Applicant's CFS INVESTMENTS mark and Opposer's CFS-formative marks. Accordingly, Opposer would be damaged by registration of Applicant's CFS INVESTMENTS mark to Applicant.

13. Additionally, were Applicant to obtain a registration for its CFS INVESTMENTS mark, this would constitute prima facie evidence of Applicant's ownership of that mark and of Applicant's exclusive right to use the mark in commerce in connection with FINANCIAL PLANNING FOR RETIREMENT and FINANCIAL CONSULTING services, all to the detriment of Opposer. Accordingly, Opposer would be damaged by registration of Applicant's CFS INVESTMENTS mark to Applicant.

Actual Confusion

14. Applicant's use of the CFS INVESTMENTS mark has caused actual marketplace confusion between Applicant and Opposer.

15. Opposer has long received, and continues to receive, misdirected telephone calls that are intended for Applicant. Such calls are from persons who have accounts with Applicant, or from representatives of such persons, and who advise Opposer that they wish to discuss their accounts with Applicant.

WHEREFORE, Opposer respectfully requests that this Opposition be sustained, and that registration of the above-identified CFS INVESTMENTS mark to Applicant be refused.

Opposer, CFS Investment Advisory Services, L.L.C.

/Mark H. Jay #27,507/

Mark H. Jay, Esq.
Attorney for Opposer, NJ Bar Member

Mark H. Jay, P.A.
P.O. Box E
Short Hills NJ 07078-0383
973-912-9066
mhj@MarkHJay.com

Of Counsel:

Lawrence C. Edelman, Esq.
3 Buffalo Run
East Brunswick NJ 08816-4003
732-771-3775
lcedelman@aol.com

I hereby certify that a true and complete copy of the foregoing Notice of Opposition was served on Katherine R. Keenan, Esq. by e-mailing a PDF copy thereof to her at ckeenanlaw@gmail.com on September 2, 2015. Ms. Keenan agreed to service by electronic transmission on August 26, 2016.

/Mark H. Jay #27,507/

Mark H. Jay, Esq.

Exhibit A

Corporate Financial Services
1211 Hamburg Turnpike
Suite 205
Wayne, New Jersey 07470
(201) 696-5050
Fax (201) 305-0013

633 Third Avenue
19th Floor
New York, NY 10017



*T-Bill
Elaine + Elsa*

May 20, 1991

[REDACTED]

Clifton, NJ 07011

Re: Financial Plan

Dear [REDACTED]:

After reviewing the information you gave me, I have the following observations.

1. You currently have an estate tax of approximately \$60,000. If you live an additional 10 years and your estate grows at approximately 6%/yr, your estate tax increases to \$250,000.
2. You "gifted" half of your assets to your daughter. We need to correct this by either reversing the "gift" or filing a gift tax return.
3. Your Will is inadequate in the event Elaine pre-deceases you or dies with you. We need to see an estate planning attorney to revise the document.
4. Your Living Will is also inadequate. This document should be more explicit with your desires for life support.
5. Your assets are spread over different institutions. It would be simpler and more tax effective if you had all your assets centrally located.
6. You need to consider how much money you need in Certificates of Deposit. This is the worse investment since the interest is federal and state taxable. You might possibly be better invested in municipal and treasury bonds.
7. You have a Smith Barney and Franklin municipal mutual fund. A mutual fund has no stated maturity, therefore the investment will always fluctuate in price. We need to examine whether it is better to have individual bonds or trusts.



CFS Investment Advisory Services
Registered Investment Advisor

250 Passaic Avenue, Suite 120
Fairfield, New Jersey 07004
(201) 244-9001
Fax (201) 244-9542

December 21, 1994

[REDACTED]
[REDACTED]
New City, NY 10956

Dear [REDACTED]

Enclosed please find the paperwork required to transfer the custodian of your Profit Sharing Plan. Please check everything for accuracy, sign at the 5 red marks and return them to me via overnight mail. Also include a \$50.00 check payable to Donaldson, Lufkin & Jenrette. Please maintain the enclosed folder as a part of your permanent file.

Please call me if you have any questions. Thank you very much.

Sincerely,

Harris Nydick ©
Harris S. Nydick, CFP, CIMC



CFS Investment Advisory Services
Registered Investment Advisor

250 Passaic Avenue, Suite 120
Fairfield, New Jersey 07004
(201) 244-9001
Fax (201) 244-9542

August 25, 1995

[REDACTED]

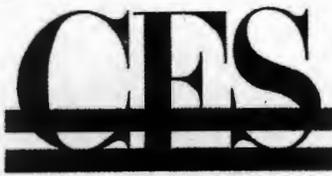
Boca Raton, FL 33434

Dear [REDACTED]

Enclosed please find your new Guardian Disability Insurance policy.

Sincerely,

Harris Nydick ©
Harris S. Nydick, CFP, CIMC



INVESTMENT ADVISORY SERVICES, L.L.C.

CFS Investment Advisory Services, L.L.C.
Registered Investment Advisor

250 Passaic Avenue, Suite 120
Fairfield, New Jersey 07004
(973) 244-9001
Fax (973) 244-9542

October 15, 1998

[REDACTED]

West Caldwell, NJ 07006

Dear [REDACTED]

Enclosed please find a position report of your accounts as of September 30, 1998.

Please feel free to call me if you have any questions.

Sincerely,

Greg Makowski [®]

Greg Makowski, CFP, CIMC



INVESTMENT ADVISORY SERVICES



Common Financial Sense™

CFS Investment Advisory Services, L.L.C.
Registered Investment Advisor

97 Lackawanna Avenue, Suite 101
Totowa, New Jersey 07512
(973) 826-8800
Fax (973) 256-8688

AGENDA FOR TODAY'S MEETING

1. An examination of the operational costs associated with the plan; gathering or reviewing plan document and/or service agreement.
2. Examination of the plan sponsor's adherence to the investment policy statement.
3. Insuring education and communication offered by the incumbent provider and/or advisor is meaningful and worth the fees associated with such services.
4. Defining and evaluating the service provider deliverables.
5. An in-depth exploration of key fiduciary issues and the advisor's role in achieving adherence in meeting those requirements.
6. Appropriate investment choices, styles and reasonable investment fees.
7. Updated plan design that allows key executives to maximize deferrals and tax advantages.

Exhibit B



cfs investments

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CFS Investment Advisory Services, LLC | Totowa, NJ | Financial Advisor
www.cfsias.com/
 CFS Investment Advisory Services LLC (CFS) will help you understand and control your finances and free you to pursue your dreams and aspirations.
 Our Team · Glossary · Retirement · Estate

Gregory Makowski, CFP®, AIF® | CFS Investment Advisory Services ...
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 Greg Makowski is a founder and Managing Member of CFS Investment Advisory Services, LLC. According to Bloomberg magazine, CFS is one of the top ...

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 Investing should be easy – just buy low and sell high – but most of us have trouble following that simple advice. There are principles and strategies that may ...

Investing Basics - New York Community Bank
[https://www.mynycb.com/investmentsandinsurance/...](https://www.mynycb.com/investmentsandinsurance/)
 At CFS Investments, we work closely with our clients to help them identify and realize their individual financial objectives. Through personal confidential ...

CFS Investments, Inc.: Private Company Information - Businessweek
www.bloomberg.com/Research/stocks/private/snapshot.asp?...
 CFS Investments, Inc., also known as CFS Investments New Jersey, Inc., provides security brokerage and investment advisory services. The company was ...

Cfs Investments Inc Westbury, NY 11590 - YP.com
www.yellowpages.com/westbury.../cfs-investments-inc-462720272
 Get reviews, hours, directions, coupons and more for Cfs Investments Inc at 615 Merrick Ave 1, Westbury, NY. Search for other Investment Securities in Westbury ...

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 Learn about working at Cfs Investments. Join LinkedIn today for free. See who you know at Cfs Investments, leverage your professional network, and get hired.

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www.cfs4me.com/
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- cfs firstchoice investments
- cfs finance
- cfs wholesale investments
- cfc investment

1 2 3 4 5 6 7 8 9 10 Next



CFS Investment Advisory Services, L.L.C.

Website Directions

Financial planner in Totowa, New Jersey

Address: 97 Lackawanna Ave # 101, Totowa, NJ 07512

Phone: (973) 826-8800

Hours: Open today · 8AM–5PM

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PRIORITY MAIL EXPRESS CERTIFICATE
SUBMITTED PURSUANT TO 37 CFR §2.198

I hereby certify that on September 2, 2016, the attached Notice of Opposition in the matter of trademark application Serial No. 86905841 is being deposited with the United States Postal Service using the Priority Mail Express Post Office to Addressee service, Label Number EF 131490783 US, addressed as follows:

Commissioner for Trademarks
P.O. Box 1451
Alexandria VA 22313-1451

Dated at Short Hills, NJ
September 2, 2016



Mark H. Jay, Esq.
Reg. No. 27,507