August 13, 2010

To Whom It May Concern:

I have been a financial planner for sixteen years, and have had the opportunity to work with a wide variety of people from all income levels. I am a Fee-Only planner and a Registered Investment Advisor. I work with many military members and teachers who are solidly middle income.

Usually, I work with them on an hourly basis to evaluate their investments and make recommendations for changes. This may be in their federal Thrift Savings Plan, 403(b) plan, IRA, Roth IRA or taxable account. On some occasions, I recommend they move their accounts to my custodian (TD Ameritrade), even though I will not being providing ongoing advice, to eliminate annual account fees at wire house custodians and to allow them to purchase funds with no commissions. They even have access to Institutional share classes of funds for a small transaction fee, and thus are able to use funds with the lowest expenses. I make clear to these hourly clients that I am not monitoring their investments when I am not meeting with them and they must see me to re-evaluate their investments periodically. Typically, these clients will see me once per year although some wait much longer and a few never return. For these reasons, I tend to recommend a well-managed balanced fund (like Dodge & Cox Balanced or Vanguard Wellington) for these clients.

Many of these middle income clients are desperate for advice on their accounts at Thrift Savings Plans, 401(k)s or 403(b)s. However, the sales oriented, non fiduciary advisors only seem to be interested if they can move the account and earn commissions. Since most of these clients are still working, their accounts can't be moved and the clients must locate a fiduciary advisor to provide advice now. This is a good example of how average client will benefit if sale oriented, non fiduciary advisors move to a fee structure not tied to sales. Many more (not less) people will be given advice that is in their best interests.

As an example of the poor service middle income people receive from sales oriented, non fiduciary advisors, I have a client whose husband died of cancer at a young age. As a 34 year old, unemployed widow with two young children (one with Sickle Cell Anemia), she received a life insurance lump sum payout. She was concerned about safety of this money and also knew that she would need it to pay expenses as she re-educated herself to earn a living. Yet, she was convinced by a "trusted advisor" to put this money into a Variable Annuity (I question whether this even met the suitability standard, but she refused to file a complaint). Since she cannot withdraw money from this Variable Annuity without penalty before age 59 ½, this money is not available to her family now, when she needs it.

As a fiduciary advisor, I do not feel that I can personally provide ongoing advice to hundreds of people. I have limited my practice to about 50 families and several dozen hourly clients. Having reviewed the statements of clients over the years, I routinely see high-cost "C" share class funds used in their portfolios. Their sales oriented, non fiduciary advisors are receiving substantial income for doing, in my opinion, very little. Most of these clients have been treated as "sell 'em and forget 'em" clients for advisors who are only rewarded for being "producers" or having a big "book" of business. Advisors like this, many of whom I know personally, have many hundreds of clients, sometimes thousands. Their clients are not receiving on-going advice even though their advisor is being paid similarly to me who does provide ongoing advice.

Many sales oriented, non fiduciary advisors I know want to do the right thing by their clients. However, they are limited in their knowledge of the products they sell, they are not allowed to think for themselves, and they are rewarded for sales and having a big book rather than doing what's in the best interest of the client. Sadly, these advisors are well trained to develop trusting relationships with their clients who have no clue that their advisor's recommendations are not in their best interests. In my opinion, providing densely worded "disclosures" that recommendations are not in the client's best interests do not meet a fiduciary duty. The client must understand in plain language, in person, any and all conflicts of interest. With Americans needing to rebuild their retirement savings yet scared by the Great Recession, they are in great need of fiduciary advice. Every retail investor should receive fiduciary advice at all times. This fiduciary advice (In Accordance with the Investment Advisors Act of 1940) should not be diluted to suit the sales culture (by exceptions to fiduciary duty). In addition, being a fiduciary is like being pregnant. You either are or you are not. An advisor cannot be a fiduciary for one transaction but a sales person in another transaction for that client. Thus, I most strongly recommend that you demonstrate a commitment to the individual investor by requiring a fiduciary duty for all those who provide investment advice to retail investors.

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