

August 23, 2010

SEC

RE: Fiduciary Duty proposed regulation

Dear Sirs:

I am a registered representative with license a 6, 63 and a 62 license. These licenses took a great deal of study and effort to receive through the normal channels that the government has set up for this purpose. I welcome the continuing education that is required to keep my licenses up to date. I take it very seriously because I want to do the best that is possible for my clients.

I understand that this is a thirty day period for open remarks from the public. I hope to make some points that will discourage the SEC from imposing additional burdens on broker dealers in trying to define what a fiduciary is. From what I have been able to read thus far, there is not a clear definition of what the SEC means by a “fiduciary in the matter at hand.”

First of all, I would like to address the issue of fee-based versus commission. I think that there is a general feeling among some regulators and maybe even the public that if you are charging a fee only for the service that you provide, that you will be unbiased in your recommendations. It is also a belief by some that it is less expensive if you only charge a fee instead of a commission. It is my belief, if you do the math, that if a fee-based system is required by all, it would be more expensive for the customer. I have, thus not been willing to do a fee-based for my customers but feel that full disclosure of the cost involved in any transaction is the start of an honest, good relationship between an advisor and his clients. It is again, my belief that it is less expensive to charge a commission where appropriate, and have smaller on-going fees than it is to have a fee structure that continues to charge every year.

“What does best” mean as far as trying to provide a product. Does it mean that the Money magazines top 10 Mutual funds for the year is the best place to put someone’s money? Or is the best historic pricing the best place to suggest that people put their money. Does the “best” mean that today is the best thing to do it but as people’s lives change and they change their minds that they can out-guess what the “best” was on a certain day that they decided to put some money in a particular investment after full disclosure. This, to me leaves a very open ended question and little responsibility on the customer to make decisions that are “best”. The “best” may be seen as the best thing that day, but again, because of changes in ones life, changes in one’s employment, changes in one’s return on investments, they may say that was not the “ best,” and I should have done something different. This, to me, opens a very slippery slope of trying to help anyone make a decision on where they should place money for retirement, for education, or for whatever their goals are.

Again, in my opinion the proposed fiduciary standard in essence adds a vague legal liability standard that looks back and “sometimes after many years and is enforced after the fact by a regulatory body, and trial lawyers who are trying to make a living deciding in hind sight: Is that “best?” Was that “best?” Did the customer agree that that was a good place to put their money, but since tried to out guess because it did not hold to the expectations that they perceived for that particular investment.

I would hope and trust that the SEC would take a very close look at this and see that it is NOT in the public’s best interest to add more layers of regulation where we are already very highly regulated and held responsible for helping our customers in the best way we can – given the information from the customer of what they are trying to accomplish.

Sincerely,

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