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July 5, 2013

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number 4-606

Dear Ms. Murphy,

Thank you for the opportunity to comment on the question of conduct standards for broker-dealers and investment advisers. I would like to share a personal story which I hope will help illustrate how confusing and dangerous the current system is for consumers, and how much reform is needed.

Background

My 89-year-old mother grew up during the Great Depression. She has always been a good comparison shopper and careful with her money. My late father had set up a brokerage account at the local office of a large, nationally-recognized full- service brokerage firm. Last fall, my mother, sister and brother-in-law set up a meeting with the broker to see about rebalancing the portfolio, which my sister thought was too risky and did not fit with her values. At their request, the broker sold the oil company and other smokestack industry stocks that my father had chosen, and then the four of them turned to a discussion of new investments. My mother, who now needs ongoing access to her funds for current use, told the broker that her investment goals were preservation of capital with "some earnings." She did not know how to go about choosing investments, and was glad to sign up for a program offered by the broker under which, for a 1% annual fee, he would choose investments for her.

Although my mother, sister and brother in law all have graduate degrees (in fields other than finance) they did not fully understand all the paperwork, so they asked for a number of clarifications as to how the program worked and verbally reiterated my mother's conservative investment goals. My mother felt the broker was trustworthy because she knew one of his relatives, and the three family members left with the impression, based on verbal assurances, that the broker would be contacting them with various investment recommendations for their consideration, prior to investing.

Several months later, my mother showed me her statement. The bulk of her portfolio was now invested in three mutual funds chosen by the broker. Neither she nor my sister or brother-in-law could recall the broker consulting with them before making the investments. My mother reiterated to me that she had been looking for investments that were "super safe." I also reviewed the "Single Advisory Contract" she had signed at the meeting with the broker. It contains 11 pages of fine print, which describes her broker as a "financial advisor." The contract indicates that additional disclosures will arrive in a "welcome package" in the mail ten days later.

Using the online research tools available to me as a customer of a separate, self-service brokerage firm, I discovered that while the three mutual funds the broker had chosen for my mother had Morningstar® ratings of 3, 4 and 5, they also involved taking high risks: the underlying assets consisted largely of short positions, high yield bonds, sovereign debt in emerging markets, and a Russian oil company. The top ten holdings in one of the mutual funds consisted entirely of other mutual funds managed by the same investment firm, resulting in a double layer of management fees for anyone invested in the top-level fund. Including the 1% annual advisory fee charged by the broker's firm, this resulted in a cumulative 2.94% in annual fees, requiring my mother to take a significant amount of market risk just to break even on her investments. Many of the top ten investments in the second layer of mutual funds bore the name of the top level mutual fund company, indicating that it was investing in its own paper, but revealing nothing about the quality of that paper.

Clearly, there had been a disconnect between what my mother had asked for and what she had received. During the six-month time frame during which the advisory relationship was in place - a time period during which the Dow Jones Industrial Average rose nearly 1200 points -- my mother's portfolio declined 1.5%. With my mother's permission, I telephoned the broker and asked that the new mutual funds be sold. A tug of war ensued, with the broker insisting that the investments were indeed in my mother's best interests. He spoke warmly of the investment manager's credentials and track record, and of the many conference calls the investment firm held to promote the benefits of its investment strategy. I did not back down and he eventually complied with my "sell" request.

In the following two months, the three mutual funds in question fell in value a further 5%, 6.5% and 6.8%, respectively, during a time frame in which the market as a whole rose another 100 points. In short, my mother got out just in time. I do not know what pressures or incentives there might have been to make the purchases on my mother's behalf, and my mother did not wish to press the issue on account of her social relationship with the broker's relative.

I am grateful that my mother escaped this experience relatively unscathed. However, her experience is not unique, and I recognize that not every small investor has a relatively knowledgeable family member, with an independent source of reliable information available to them, who happens to have a conversation with them at the right time. My purpose in writing to you is to ask for greater simplicity, clarity and transparency in the communications in which the relationship between the consumer and the investment advisor/broker-dealer is set up; greater transparency in compensation arrangements with third parties which might cause a conflict of interest; and much more detailed guidance - perhaps with examples - on the definition of "suitability" so that it cannot be interpreted as widely and inappropriately as it was in my mother's case.

Specific Recommendations

1. Plain Language Disclosure. In developing new regulations, I believe it would be helpful to view the investment world through the eyes of the typical consumer in the demographic to which the advice products are marketed. The disclosures and representations which establish the relationship should be

readily understandable by those who typically hold small investment portfolios, which would include those who typically own 401(k) and similar retirement accounts. The bar is too high when three college graduates cannot understand the paperwork involved in opening a consumer brokerage account without hiring a lawyer. My mother does not know what a "fiduciary" is, but she did expect the broker to act in her best interests. If there were other motivating factors for the broker to choose a particular investment, she deserved to know that before the investment was made.

I have reviewed the requirements for Form ADV and the Brochure Supplement as described on your website at http://www.sec.gov/investor/alerts/bulletin-formadv.htm , as well as the forms filed with the SEC by my mother's broker. I do not know whether a copy of this was ever provided to my mother, but even if it was, it is too dense and detailed, and not geared specifically enough to the relationship with the particular customer, to be useful to the average consumer who is spending an hour or two with an advisor and hoping to come away with a meaningful sense of what sort of investment arrangement they are getting into.

I would recommend that, prior to any trading taking place, brokerage consumers receive a simple, brief statement describing the relationship with the brokerage house as falling into one of three categories, with a place to check the box as to which one will apply:

- That the firm is acting as a broker only, that it owes no duty whatsoever to act in the customer's best interests, that its personnel may be receiving compensation from third parties to recommend particular investments, and that the customer is advised to seek independent advice before acting.
- That the firm is acting in the customer's best interests; that it receives no compensation or incentives of any kind from third parties for placing trades on the customer's behalf; and that it will not engage in proprietary trading with the customer.
- That the firm is acting in the customer's best interests, but that the firm is also receiving compensation from institutions whose products it is offering, as more fully described in an accompanying statement; or that the firm may be the counterparty to a transaction in its capacity as an investor. The accompanying statement should set forth succinctly, quantitatively, in plain English, any sales commissions, rebates, volume incentives, periodic management fees, maintenance fees, pay to play fees, and/or any other compensation involved. The statement should indicate whether the compensation is a percentage or a flat fee, and whether it is tied to the particular transaction or to a larger relationship. If the compensation varies based upon the investment and cannot be broken out into broad categories such as "all transactions we place for you with Company A will be subject to the Company A compensation arrangement," a separate statement should be presented for each investment offered. Consumers receiving this information will be better able to determine whether the fees involved are reasonably related to the transactional costs of purchasing the investment, or might provide an undue incentive which might color the firm's judgment.

If the account documentation is internet-based, these three options should be provided separately from the boilerplate policies or long-form agreement.

2. Risk Tolerance Disclosure. My mother was very clear in expressing her low risk tolerance, yet this translated either into a completely different understanding in the mind of the broker, or a wholesale disregard of her wishes. The 11-page boilerplate document my mother signed indicates that an "asset allocation investment model" will be established based on risk tolerance, and that once a model has been selected, a portfolio will be built around it. However, my family and I can find no indication that this exercise ever took place. Risk choices need to be disclosed in meaningful terms that the average brokerage consumer will understand, and need to include an explanation of volatility as well as overall historic return. A simple check-the-box assessment of my mother's situation should have readily pointed up the disconnect between my mother's financial needs and her broker's choices. Such an exercise is basic to determining suitability.

3. Risk Management Systems. The SEC has an opportunity not only to promote the use of effective assessment forms, but also the manner in which such assessment forms are incorporated into the day-to-day business of the brokerage firm. A national firm with thousands of customers should not only require their front-line brokers and investment advisors to use objective and verifiable criteria to determine suitability, it should also have risk management systems in place which ensure that the required paperwork is completed and that the information is entered in the customer's file; and which prevent the trading of a customer's portfolio in a manner which deviates from the objectively-established suitability profile.

4. Fee Impact Disclosure. In addition to the conflict of interest and risk tolerance disclosures requested above, please consider requiring a disclosure of the cumulative effect of the management fees charged by the funds and the firm, and alternatives that might be more suitable for a particular investor. If a mutual fund is investing in other mutual funds, the cumulative effect of the multiple layers of fees should be disclosed in the top level fund. Also, "buy and hold" investors such as my mother may benefit more from a one-time fee-based counseling session to aid in the selection of appropriate investments to hold, rather than an ongoing annual fee. (The 1% blanket fee my mother was charged was applied wholesale to her entire portfolio, including the "bank deposit" portion, resulting in a negative drain on that portion of the account in today's interest rate climate.) Please consider requiring disclosure of the fact that such an option is offered by some investment advisors.

5. Conclusion. It is clear that when a retail consumer walks in the door of a brokerage firm offering investment advisory services, the need for consumer protection begins at that point. It does not begin only when the consumer has found his or her way through the maze of alternatives and negotiated an agreement requiring the broker to act in the customer's best interests. Clear, simple up-front disclosures must be given which are consistent with the consumer's expectation that they will know, by the time they walk out of the office, either that they have the undivided loyalty of someone who is duty-bound to act in their best interests, or that they are dealing with a broker who is looking out for Number One.

Name withheld to protect my mother's privacy