

PARAGON CAPITAL MANAGEMENT, LLC

Re: Proposed Amendments to Rule 206(4)-2
Release No. IA-2876
File No S7-09-09

Our response is directed towards the proposal that RIA firms that deduct fees directly from client accounts be subject to a surprise audit even though they use a qualified custodian for all their clients' accounts. We believe that any new regulations should address the activities that create opportunities for fraudulent behavior. Those opportunities typically exist when there is a related custodian, lack of appropriate audits, or investments in securities that are not transparent or are inappropriate for the client. In light of the recent disclosures about the fraudulent activities of some registered investment advisors, we do agree that some regulatory action is required. Appropriate measures taken by the SEC will help instill more confidence in the integrity of RIA firms which in turn will provide some peace of mind for their clients.

Most RIA firms use a qualified, unaffiliated custodian which is a significant protection for their clients, but they typically deduct fees directly from their clients' accounts. These RIA firms are not violating any fiduciary duty and provide a valuable service for individuals needing investment and/ or financial advice. A surprise audit of firms that have custody solely due to the direct deduction of fees from client accounts would not address the issue of preventing fraudulent activities but would unnecessarily create financial burdens for most RIA firms.

We offer the following suggestions as an appropriate response to the proposed rule that would require a surprise audit for any RIA firm deemed to have custody of client assets because of their ability to directly deduct fees from their clients' accounts.

- Notice of fees that will be deducted from clients' accounts must be sent to clients prior to the deduction of those fees.
- Fees must be within a reasonable range based on the fair market value of clients' assets.
- Increase the number of audits of RIA firms
 - Firms that present the greatest risk to clients should be audited more frequently and have the most thorough examination.
- Require advance disclosure to prospects that fees are deducted directly from their accounts but remove the language stating that RIA firms have custody because of their ability to directly deduct fees from client accounts.

We are not commenting on any other proposed amendments to Rule 206(4)-2 because their impact on our firm would not be as significant as the surprise audit.

Respectfully,

*Howard Jacobson, Craig Novorr, Ward Williams, Elizabeth
McLeod, & Ethel Davis
Partners,*

Paragon Capital Management, LLC