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Client Recommendations

A Fiduciaries Responsibility



What is a Fiduciary

- Fiduciary comes from the Latin word fiducia which means trust.
- Fiduciary today also means trust, guardian, and custodian.
- There is also a legal definition and requirements that come with the name.



Legal Definition

- A fiduciary puts their client's best interests first. They act with the prudence, skill, care, diligence and good judgment of a professional; provide conspicuous, full and fair disclosure of all important facts; avoid conflicts of interest; and fully disclose and fairly manage, in the client's favor, unavoidable conflicts.
- This is the basis behind why you deliver your ADV Part 2B and the Firm's ADV to clients.



How is this Accomplished





What Would You Like to Talk About

- An Eskimo does not need to know which brand of ice maker is the best
- A vegetarian does not need a recommendation to a great steak house



Goals and Objectives

- What do you want to have happen...
- These are normally divided into three categories; income, accumulation, and protection



Where Can I Help

- Jacque Crusoe does not need SCUBA lessons
- Richard Petty does not need driving lessons
- Steven Spielberg does not need help directing movies
- Kirby Smart does not need help coaching

- From you



Know Your Role

- Part of being a fiduciary is knowing what you don't know.
- We all know how life insurance works but we do not set the accuracy tables
- Part of being a fiduciary is identifying parts of a client's goals and objectives where you are not the expert, telling them you are not the expert, and referring them to consult an expert.



Closed vs. Open Questions

- Both are designed to gather information and confirm your understanding.



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Do You Know What a Rose Smells Like?





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Describe it



Questions

- Both the open and closed question confirmed that you know what a rose smelled like, but which was more valuable?



Why is Ford Famous

- It was not the car. The first gas powered automobile was invented by Karl Friedrich Benz in 1885. I had to look it up too.
- Ford is famous for the assembly line. The ability to consistently produce a reliable product.
- The assembly line not only reduced the time and expense of creating a car but it also improved the quality.



Your Assembly Line

Disclosure

- Every client is unique with their own unique situations and goals
- Having the correct fact finder or financial questionnaire is critical to gathering the information needed for you to make a proper recommendation
- Not getting answers to the right questions could create liability to you in the future
- How do you know if your fact finder or financial questionnaire asks the right questions



The Importance of a Fact Finder or Questionnaire

- Every successful advisor and advisory practice has a process that they follow with every client
- The data gathering and fact finding process is no different



What Makes a Good Fact Finder

- One that is used consistently with every client and retained
- One that is updated periodically
- One that asks appropriate questions
- One that is retained in every client folder



Why a Process

- It ensures that the needed steps are followed and the appropriate questions are asked so you can successfully do your job. Which is being a fiduciary.



What is the Role of a Fiduciary

According to the Securities and Exchange Commission, the fiduciary duty entails:

- Acting with undivided loyalty and utmost good faith
- Providing full and fair disclosure of all material facts, defined as those which a “reasonable investor would consider to be important”
- Not misleading clients
- Avoiding conflicts of interest (such as when an IAR profits more if a client uses one investment instead of another or trades frequently) and disclosing any potential conflicts of interest
- Not using a client’s assets for the advisor’s own benefit or benefit of other clients



What is the Role of a Fiduciary

- Departure from this fiduciary standard may constitute “fraud upon your clients”, which could result in firm or IARs registration being revoked, or the IAR getting barred from the industry, or multi-million dollar disgorgements, among other penalties
- Fiduciaries have a “duty to care” – these obligations extend beyond the first meeting. A fiduciary will continually monitor a client’s investment and financial situation and adhere to best practices of conduct for the duration of the relationship



Fiduciary Standard vs Suitability Standard

Fiduciary Standard

- Must undergo a prudent process designed to determine the client's best interest.
- Recommendations must be discussed thoroughly with the client to ensure there's no misunderstanding about the recommendation and the rationale for making it.

Suitability Standard

- Requirement is to have only adequate reason to believe a recommendation fits the client's financial situation, needs and other investments
- Suitability standard does not require advisors to put their clients' best interest before their own



Put Another Way

- Someone wants to know how to get to New York City
- It would be suitable to tell them to walk east or to start hitch hiking. They will get there eventually.
- A fiduciary would say take a plan because it's the quickest, safest, least expensive way to get there.



Client Meeting

- You have a initial client meeting with a well respected senior pastor from a large church. He and his wife have been married for 30 years and they want to talk about retirement and estate planning.
- A well respected pastor and a long marriage. Would you ask about children from outside the marriage?



Having All the Information is Important

- What if the pastor got his high school girl friend pregnant or had an 'adventurous' streak when he was younger? Or had a very brief marriage prior to his current wife?
- Not asking a question because you think you know the answer or it doesn't apply creates a potential liability to you and your client in the future
- This is why there is a process.



Where They've Been

- Back ground is important. If you do not know the facts and the complete situation how can you provide sound advice to your clients?
- It's the same principal when you visit the doctor. The doctor ask about allergies. Why, because if your allergic to penicillin and the doctor prescribes it and you take it something bad will happen.



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Nothing Ventured Nothing Gained





Risk v Reward

- Why do certain investments offer the potential for a high return?
- The premise is a rational investor requires an appropriate level of compensation potential to assume the level of risk represented by an investment.



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What's Your Number





- Do you recommend Vegas as a retirement strategy to your clients?
- How about that hot penny stock you got an email about this morning?



- No, because it's too much risk.



How much Do Your Clients Need?

- It starts with knowing where they want to go and what dollar amount is needed
- This number is key...



The Importance of Documenting and Archiving is Critical

- You could meet with your clients monthly and have in-depth discussions about every aspect of their financial lives but if it's not written down and documented it never happened.
 - The Right Process is Important!



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As an Added Bonus





Litigation or Compliant Process

- Have copious notes and documentation is critical when defending a recommendation or financial strategy
- Allows you to defend your recommendations in litigation, compliance or an audit
- Is the best defense in countering a potential litigation (cheaper and more effective than E&O coverage)



Litigation and Compliant Process

- If we can show that we asked the correct questions
- If we can show that the product or advice given is appropriate
- If we can show that we've updated our client's profile and updated our plan as their life changes
- We will successfully resolve any complaint