I am a Financial Advisor - I am a Fiduciary

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Even as the 4/10/17 effective date of the Department of Labor (DOL) Fiduciary Rule has come and gone without event, the debate rages on. The battle lines are formed within the House Financial Services Committee pretty much along party lines with the Democrats trying to save the Rule and the Republicans trying to abolish it.

As we all know, every crisis offers an opportunity. What we saw happen was predictable. A robust cottage industry of “consultants” emerged promising to deliver efficient solutions to thousands of affected insurance agents, broker dealers and financial advisors who have been pondering the fate of their business models and careers. And, many major insurance companies exploited the fear, crisis and sense of impending doom among seasoned advisors that has been ubiquitous since the beginning of 2016. They spent fortunes on marketing materials, communications and outreach campaigns to position themselves as strong, durable, resource rich institutions that would be a “shelter in the storm”. Unfortunately, many independent advisors succumbed to their fears and either left the business, sold their practices in a fire sale or abandoned their independent practices and joined the big guys.

So here we are today, no closer to resolution than we were in 2010 when the Dodd-Frank Act first mandated that the SEC develop and impose uniform standards to the financial services industry. Said another way, the SEC was given a carte blanche to create and enact a uniform fiduciary rule. Instead of taking advantage of the opportunity to bring meaningful improvement to financial services industry and public investors, they did nothing and the DOL seized the opportunity to gain control over the largest segment of the investment universe – retirement investors. They DOL also used fear mongering and misinformation to advance their agenda. A uniform fiduciary standard is a great idea, but the final DOL Rule was poorly conceived, intrinsically flawed and seen by most interested observers as a disaster.

Regardless of what side of the debate you fall on, there is a common sentiment shared by investors, regulators, legislators and the industry - it is exhaustion or what some have come to call fiduciary fatigue.

To be sure, the Fiduciary Movement is afoot. Despite the failure of the DOL Rule to take effect and the fact that significant efforts are underway to undo Dodd-Frank completely, it is unlikely that any lawmakers will support abandoning a Fiduciary Standard. We cannot unring the bell. The public is aware and more informed than ever of the dysfunctional regulation in the Financial Services Industry and are aghast to learn that requiring an advisor to act in a client’s best interest is even being debated!

The contradiction presented by opposing a Fiduciary Standard of care is embarrassing and damages the credibility of the industry!

Let's examine the nature of the word Fiduciary. From Latin *fiduciarius* "entrusted, held in trust" – from *fiducia* "trust, confidence, reliance" – from *fidere* "to trust". In Roman law, *fiducia* was "a right transferred in trust" like paper currency because its value depends upon the trust of the public.

I believe we can agree that all financial advisors and institutions, in one way or another, present themselves as having **<u>special expertise and knowledge</u>** that qualifies them to render advice. They also go to great lengths to **solicit the trust of investors** and ask that they **<u>rely on their advice</u>**. These actions unarguably give rise to a fiduciary relationship.

If you are a Financial Advisor

If you are holding yourself out as a trusted financial advisor, act like one! Acknowledge that you are a Fiduciary thereby demonstrating that you have the moral fiber and courage needed to accept the solemn duty and the consequences of violating that duty. <u>These are sublime qualities that differentiate salesman and stewards.</u>

Surround yourself with like-minded colleagues that share the same values and be part of an organization whose values align with yours.

If you are a Financial Institution

Walk the walk! The credibility of our industry is at stake. You can't preach "best interest" while you are betting on positions against your customer's like we saw in 2008. Neither can you publish an elaborate mission statement Like Wells Fargo's Vision and Values and then systematically defraud over 2 million customers.

Articulate your organization's values to your customers and the public clearly and unconditionally.

Make promises publicly and keep them.

Establish a corporate culture where ethics and stewardship is as important as profit.

Engage all members of the organization in regular discussion of the firm's values, vision and standards and incorporate ongoing training.

Encourage the input of all personnel within the organization and adopt an objective process of assessment. Regularly review the progress with everyone.

If you are an Investor

Ask your advisor if he or she is a fiduciary. Beware of answers you'd expect to hear from a corporate attorney like "we always act our customer's best interest" or "we uphold professional standards and comply with all rules and regulations".

If the answer is anything but "Yes", look for another advisor!

The financial services industry must demonstrate, beyond rhetoric, that their client's interest is ahead of their shareholder's profit. Until we do, we should expect increasing efforts by regulators to control our behavior through legislation like Dodd-Frank and the DOL Rule coupled with severe penalties for non-compliance.

The author, Vincent Micciche is a founder and the CEO of LifeMark Securities Corp. He is also an author and outspoken advocate of fiduciary standards in the Financial Services Industry. For more examples of how advisors and firms can adopt and advance ethical behavior look at www.lifemark.com *and his blog Stewardship Standards at* www.vincentmicciche.com/blog/