Society of FSP

Financial Service Professionals

Rocky Mountain Chapter

ETHICS CASES

CASE #7
MIND YOUR OWN BUSINESS?

"Betty, just make the change for me, will you? I've been at this a long time and I have my reasons." George Lane, one of Betty's long time clients for his personal affairs and a trustee for several large family investments, had called to ask her to take the cash surrender value from one of his life insurance policies and use it to invest in the IPO of start-up technology company.

Betty Garrett, CPA, CFP, ChFC, had expressed concern about the high risk level of the new investment and George's hasty decision. On the face of it, it did not seem like an appropriate move for George to make. But he had reacted strongly and insisted that she comply with his request.

In recent months, Betty had noticed George seemed to have mental lapses during which he became confused or unexplainably irritable. He frequently seemed unable to concentrate, responded irrationally to routine inquiries, and had become noticeably forgetful. She was concerned that he might be making this investment decision during one of those times. And even if George had all his wits about him, this decision was a bad one in Betty's professional opinion.

"Well, are you going to get this done for me, Betty?" George asked angrily.

CONSIDER:

1. Should Betty execute the change as George asks?
2. Should she explain her concerns in writing and ask George for written confirmation of his instructions?
3. Should she consider talking to other family members about her concerns for George?
4. What other options should Betty consider?

1. Why is this bothering me?	
2. Who else matters: Clients? Carriers? Professional colleagues? Employees?	
Regulators?	
3. What is my responsibility?	

4. What are the ethical concerns? What Canons of the Code apply?	
5. Who can I ask for advice?	
6. Am I being true to myself? To the values of my profession? My professional association?	

CASE #13
VARIABLE DEVELOPMENTS

John Roberts began in the financial services industry twenty years ago as a stockbroker with one of the major "wire houses." As he gained more experience in the needs and concerns of his clients, he began to recognize that risk management was an important area that he and most of his fellow brokers were unequipped to handle. To become better prepared for his clients' needs and considerations in that area, he pursued the Chartered Life Underwriter designation and became a CLU several years ago. He has become appointed with several major insurance companies selling both traditional and variable life and annuity products.

John was recently introduced to Moe Albertson, an extremely successful real estate developer. Because most of his net worth is tied up in real estate, Moe acknowledges that his death would trigger substantial liquidity issues even in the absence of estate taxes. Moe agrees with John's assessment that $10 million of permanent life insurance is appropriate to his needs, but Moe has warned John that he fluctuates between "good times and bad times" and needs a low-cost policy with premium flexibility. John sets up a medical exam for Moe with Lifetime Mutual, a highly rated insurance company with a good reputation, and prepares two policy illustrations for $10 million of death benefit: a Universal Life policy illustration with a non-guaranteed premium of $170,000 a year (calculated at an average crediting rate of 5%) and a Variable Universal Life policy illustration with a non-guaranteed premium of $120,000 (calculated at an average investment return of 10%). Moe has previously indicated stock market sophistication and a willingness to take risk. Both policy types have now been underwritten and are ready to be issued; because the medical exam was completed almost three months ago, the offer to issue a $10 million policy will expire tomorrow.

Moe has been in the middle of the biggest development project of his career and has been unreachable for the last three weeks. Even when he finally takes John's call, he allows no time to explore the alternatives: after John indicates the difference in premiums for the two different policies and the need to make a decision right away, Moe declares the decision a "no-brainer" and arranges to send a courier later that same day with a certified check for $120,000 on behalf of the Variable policy.

CONSIDER:

1. What are the issues confronting John?
2. What are the issues confronting Moe?
3. How should John get Moe's attention? Are there any circumstances under which John should decline to promptly send the check to Lifetime Mutual to bind the Variable policy if Moe refuses to meet with him today?
4. What are John's duties – as to the ethics, statutes, and regulations that apply in this situation?

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CASE #14
TRUSTED EXPECTATIONS

Sandra Baldwin recently "switched careers." She had worked for many years as the administrative assistant for a successful life insurance agent and had always liked the "working with people" aspect of her job. Encouraged by the agent with whom she worked, Sandra was diligent to the technical aspects of her career and had pursued the appropriate course work to ultimately attain both her CLU and CFP designations.

Through her participation in the local Estate Planning Council meetings for the last 10 years, she became friendly with Joyce Robinson, Sr. VP and Director of the city's largest bank's trust division. So when Sandra's "boss" retired, she was quickly approached by Joyce to consider joining their "ILIT" (Irrevocable Life Insurance Trust) team. Joyce believed that adding Sandra's insurance and "people" skills to their considerable number of clients whose policies were being managed would help her expand their "market" even further. Further, Joyce was quite proud of the unit she had developed and was looking forward to having Sandra affirm her state-of-the-art policy administration process.

As Sandra began getting acquainted with the trust accounts and policies held for the benefit of grantors' beneficiaries, she realized that while there was a great deal of policy information contained in the trust divisions "admin" system, what was missing was any update as to whether policy values were fulfilling their original expectation. In fact, Sandra estimated that more than 2/3 of the policies were universal and variable universal policies that had not been assessed for "premium sufficiency" since they were purchased. From her experience with policy illustrations – and judging from the initial high crediting rates/investment returns assumed in those illustrations – Sandra intuitively knew that many of these policies would not likely meet the original expectations. Given that she had just been hired, and recognizing the affirmation she knew Joyce would be expecting, Sandra was on the "horns of a dilemma."

CONSIDER:

1. What are the issues Sandra faces in her new job from the standpoint of her responsibilities as an FSP member?
2. Should Sandra approach Joyce right away with what she "suspects," or should she first attempt to get more account value information from the insurance companies?
3. What are the legal obligations of an institutional trustee to its grantors? To the trust beneficiaries? What are the ethical obligations?
4. What are the trust division's obligations to the grantor of a trust once it has been created? What are its obligations to the trust's beneficiaries? What is the trustee's responsibility if the interests of the grantor become different than those of the trust's beneficiaries? What are some examples of diverging interests in a grantor-funded insurance trust?

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CASE #2
WHAT WOULD YOU LIKE TO KNOW?

"Before we get started, let me explain a little bit about how I work." Adam Fisher, CLU, ChFC was conducting an initial meeting with Bruce and Sarah Carter about developing a financial plan. They had already exchanged social pleasantries about mutual friends, and Adam wanted to turn the conversation to business.

In the course of the next twenty minutes, he discussed the following:

- **A.** Reviewed his own credentials and experience, explaining that he is licensed to sell mutual funds and insurance products in this state, and that he is regulated by the FINRA;
- **B.** Explained that his services are compensated by commissions on the products he sells;
- **C.** Described how he provides overall financial planning analysis with no fee and no pressure for clients to follow his recommendations for purchasing commissioned products;
- **D.** Described his personal commitment to client service and building long-term relationships, giving examples of time-consuming things he has done to assist clients in the past as part of their relationship;
- **E.** Pointed out the highlights of a brochure summarizing his practice philosophy and approach to client service;
- **F.** Outlined the steps he would take to develop a financial plan for the Carters and provided some initial forms for them to complete.

CONSIDER:

1. Are any of these topics "discretionary"? That is, is Adam ethically obligated to share each of these?
2. If not, which ones are optional?
3. Has Adam missed anything that he should explain in this introductory meeting?
4. On compensation disclosure (B and C), is it sufficient to talk only in general terms? Or should Adam explain in more detail how the commission structure works? If the Carters inquire about the details, how much should he explain? What can he legitimately withhold?

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