

How to Explain Fiduciary Duty to Clients



BY KIMBERLY FOSS
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The basics of best interests

Most prospective clients do not understand that RIAs and brokers are held to different standards. In fact, potential clients often react with disbelief when they learn that RIAs like me operate under a fiduciary oath and must always act in their clients' best interests, while brokers are required to suggest suitable investments.

The confusion is understandable. Anyone can call himself an advisor, but not everyone upholds the fiduciary standard.

Most consumers don't fully understand the word fiduciary. It's financial jargon such as basis point, alpha or beta.

Of course, explaining the concept can seem canned and wordy: "As an RIA, I am bound to always act as a fiduciary. That means that I will always act in your best interests, even when your best interests conflict with my own best interests."

Telling prospects that I am bound to serve their best interests can give a skeptical person a chance to think of the inverse. A potential client might think, "Maybe the law requires her to act in my best interests because she may not be naturally motivated to do so." A prospect might wonder if I operate under an extra layer of regulation because of some previous wrongdoing that I committed.

If prospects hear me talk too much about how I have a fiduciary duty and how it serves them well, my efforts could produce a negative result. By insisting that I am trustworthy, might those claims sow seeds of doubt, allowing my audience to wonder if the opposite could be true?

A duty that creates trust

Most of my new clients come through referrals. They may know something about the work I have done for a colleague or friend. I try to add to their knowledge by describing how I define a working

fiduciary relationship. For instance, I underscore the importance of CEG Worldwide's Six C's as the foundation for client trust and satisfaction: character, chemistry, caring, competence, cost effectiveness and consultative.

It's also helpful to share the definition of fiduciary offered by Steven G. Blum, a lecturer on ethics and law at the University of Pennsylvania's Wharton School.

In his blog *A New Professionalism*, Blum writes, "A true professional uses his or her ability and power solely to advance the best and truest interests of the client. When the professional's interests diverge from those of the client, the professional always follows only the client's interests."

In another essay, Blum states that a true professional "commits to using technical proficiency in the service of clients, but also honors the complex trust placed in them by those they serve."

An attorney, Blum says the fiduciary duty works for the legal profession because lawyers study ethics. "It's not enough to say the words, 'I am a fiduciary,'" he writes. "You have to live it."

I couldn't agree more. My sense of doing what's right for my clients springs from my heart, much in the way I willingly sacrifice for my children. My clients, and my children, understand that a potential for conflicts of interest always exists, but they are 100% sure I will always act in a way that puts them first.

In that sense, my fiduciary duty is more than a different way of doing business. It's a different way of thinking, or feeling.

I might begin the conversation about obligation, but my talks with clients don't revolve around me. As Peter F. Drucker wrote in his book *Managing for the Future*, "The leaders who work most effectively, it seems to me, never say 'I.' And that's not because they have trained themselves not to say 'I.' They don't think 'I.' They think 'we;' they think 'team.' They understand their job to be to make the team function. They accept responsibility and don't sidestep it, but 'we' gets the credit. ... This is what creates trust."

I'll add here that trust is a two-way street. We all read studies that show investors tend to hide assets from advisors. I've never begrudged a client who can afford to squirrel away some mad investment money. There are instances, though, when unreported assets or a client's perceived small decision — collecting Social Security benefits early — can disrupt a holistic financial plan. The more you encourage a team mentality, growing from your fiduciary duty, the more likely it is that clients will be forthcoming, and the better you can plan together.

Just the facts

While it's essential to highlight the fiduciary difference, it's not necessary to dwell on it — particularly if a prospect comes to me from a brokerage firm. I'm not insinuating that the potential client in such a case allowed himself to be taken advantage of. I'm saying there is a better way of doing business. In fact, I sometimes share my own story.

I began my career at Merrill Lynch as the youngest female account executive there. Despite my success, the commission-driven environment and pushing of proprietary investment products persuaded me to establish my own firm in 1989.

My experience has helped frame my fiduciary duty, and has been especially appealing to business owners and more independent professionals who also have worked through career transitions.

There's another aspect to my fiduciary duty: I keep politics out of my discussions.

Yes, we've been waiting more than five years since the Dodd-Frank Act was passed, giving the SEC the power to enact new regulations. And, yes, I approve of the Department of Labor's proposal under ERISA that would require those providing investment advice to retirement plans and to IRA holders to act in their clients' best interests.

And while I routinely, often in newsletters, update clients on pending or new legislation, we rarely discuss these developments at great length. Once a prospect is a client, there's really no need to do so. My clients know what I believe and, for us, the fiduciary duty is personal.

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