

ATTORNEY REPRESENTING 500+ INVESTORS IN CONFLICTED ADVICE CASES: HOLD BROKERAGE FIRMS RESPONSIBLE FOR FIDUCIARY DUTY THEY ALREADY TELL INVESTORS THEY HAVE

Public Investors Arbitration Bar Association President Cites Examples of Near Retirees Victimized by Industry Practices that Department of Labor Rule Would Bar

WASHINGTON, D.C. – August 11, 2015 – The U.S. Department of Labor should proceed with a strong rule to prohibit conflicted advice that costs unwary investors billions of dollars each year, according to New Orleans attorney Joseph Peiffer, the president of the Public Investors Arbitration Bar Association (PIABA). Peiffer has represented more than 500 investors who have been victims of conflicted advice from brokers.

His statement today to the U.S. Department of Labor Employee Benefits Security Administration is available online at www.piaba.org.

In addition to authoring two recent op-ed articles on the subject (<http://thehill.com/blogs/congress-blog/economy-budget/237104-brokers-should-be-required-to-live-up-to-their-tv-ads> and <http://thehill.com/blogs/congress-blog/economy-budget/248866-separating-fiction-and-facts-in-the-conflicted-advice>), Peiffer is the co-author of a March 2015 PIABA report (<https://piaba.org/piaba-newsroom/piaba-labor-department-rule-curb-conflicted-advice-brokers-huge-step-forward-protect->) that found that nine top U.S. brokerage firms – including Merrill Lynch, Fidelity Investments, Ameriprise, Morgan Stanley, Allstate Financial, and Charles Schwab – advertise in public as though they are trusted fiduciaries acting in the best interest of investors, and then deny in non-public arbitration cases that they have any such duty to avoid conflicted advice. Contrasting brokerage firm advertising claims with the lesser-known arguments the firms make in arbitration proceedings outside of the public eye, the PIABA report shows how the ad pitches of leading brokerage firms are directly at odds with the strikingly different message the firms send to aggrieved investors who file arbitration cases after suffering losses from conflicted advice.

In his statement today, Peiffer said:

“I am here on behalf of the investors myself and my colleagues have represented. These are people who, invariably, trust their financial professional. After all, the vast majority of these investors have placed their entire life savings with their broker. None of the people that I have ever represented realized that their broker might be held to a standard anything below a doctor or an attorney.

It's no wonder that investors believe that broker's already have to live up to a fiduciary duty. Brokerage firm's advertisements already say things like they 'will not rest' until their 'client knows she comes first.' Or stating flatly: 'Our advisors are ethically obligated to act with your best interests at heart.' There are dozens of examples of advertising like this.

Academic studies that have looked at this issue conclude what is obvious to anyone that has met an investor that has been the victim of conflicted advice. That is, investors do not know the duties that their financial professionals owe them.

One thing is clear. Right now, the very same brokerage firms that advertise like fiduciaries routinely contest that they owe a fiduciary duty to their clients. The Department of Labor rule would go a long way toward holding firms accountable in retirement accounts for the duty that they already say they have ...

What does this mean on an individual level?

Almost every week, we see a retiree come into our office who has lost a substantial amount of his life savings. These are often proud, strong workers that have saved to pay off their house, put their children through college and built a nest egg – all on salaries paid to blue collar workers. These retirees often

break down in my office when I explain to them how their investment was lost to conflicted advice. I have had clients that ran out of money and had to rent a room from his ex-wife. I have had clients live with me because they couldn't afford the gas and lodging to stay at a protracted arbitration hearing. I have, unfortunately, even had clients attempt suicide. I know the devastation that losing your life savings can have on hard-working Americans. This rule will make this better.

As an example of how this rule would help, I want to tell you about a group of Niagra Mohawk employees that I represented in Upstate NY. These blue-collar workers had built up enough years of service that they could live out their retirement by taking the monthly pension checks and supplementing that with other money that they had saved. However, their broker advised them to pull their money out of their traditional pensions and roll that and all of their savings over to the brokerage firm. If these investors had left their money in their pension plan, the broker would have made no commission, but the investors would have a guaranteed monthly income.

After following the broker's advice, my clients had lost more than half of their life savings, had no pension income, but the broker made large commissions. And, when called to account for his advice, the broker and his firm denied they had any fiduciary duty to these clients. My clients lost this case and are now living on social security and the small amount of savings they have left ...

The members of PIABA and myself see the effect of this conflicted advice on an individual level. One of my clients worked at a chemical plant for a major corporation at an \$80,000 a year job until he got the conflicted advice that he should cash out his pension and roll over all his savings to the broker. He was out of money before he was eligible for Social Security and had to take a job for \$10 an hour stocking vending machines at his former employers' plant.

This rule won't help him or any of the other retirees I've talked about earlier. But swift action to confirm a strong fiduciary duty will help prevent this from happening to any other retirees in the future and ensure that, if it does happen, that brokers and brokerage firms that breach this duty will be held accountable."

ABOUT PIABA

The Public Investors Arbitration Bar Association is an international, not-for-profit, voluntary bar association of lawyers who represent investors in securities and commodities arbitration proceedings and securities litigation. The mission of PIABA is to promote the interests of the public investor in securities and commodities arbitration, by seeking to protect those investors from abuses in the arbitration process, by seeking to make securities arbitration as just and fair as systemically possible and by educating investors concerning their rights. For more information, go to <http://www.piaba.org>.

MEDIA CONTACT: Patrick Mitchell, (703) 276-3266, or pmitchell@hastingsgroup.com.