

From: Ted Earl
Sent: Friday, March 17, 2017 3:29 PM
To: EBSA.FiduciaryRuleExamination
Subject: RIN 1210-AB79

Dear DOL,

Across all involved parties, there is nearly universal agreement that a financial adviser should act in the clients' best interest at all times. Since some evidence exists that this has not always occurred in retirement accounts, the question devolves as to how the Federal Government can successfully enforce the clients' best interest when Federal supervisory account authority intersects both DOL (accounts) and SEC (individual advisers). Concurrently, there is a Presidential memorandum requiring Federal Regulatory simplification.

OVERVIEW

Properly fitting the combined variations of a client's needs and retirement situations into a meaningful financial plan is like tailoring a suit to an individual. What fits one will not necessarily fit another. While investment charges ARE important, they may not be the overriding factor in meeting every client's needs.

The need to tailor retirement accounts properly is financially important and lucrative for the client's best interest. At a minimum, the client's money should accommodate inflation and plan to last for the rest of their lives. (This is a fear and especially important for women whose vote both parties desire in forthcoming elections.) Any additional client needs/requirements should be planned for and met (e.g. taxes, inheritance and estate planning). The options, vehicles and charges for how these are to be met should be fully discussed with the client.

DOL

To accommodate the above, DOL's efforts with the BIC, albeit well intended, focused on charges and did not fully understand and address all the client's mitigating retirement needs and desires. For example, in DOL's desire to protect the client's interest, they almost caused the client to lose 25% of their entire retirement funds to taxes. (See John Larson). Further, a contract has to be enforced and that may involve suing the offending party to prove a violation. Lawsuits take time to try and adjudicate. Now, if the offending party's actions are as egregious as alleged, it is probable that the offending party is also doing the identical action elsewhere and nefariously profiting from these actions while the initial lawsuit adjudicates. How does DOL protect the client's and public interest from this situation? DOL presents no remedy other than to sue after an additional action is discovered.

SEC

Under existing SEC regulations, registered investment advisers are required to act in their clients' best interest at all times. Failure to do so, can result in the loss of their license AND their ability to make a living. This inhibits an individual's capability to commit further public harm and raises the potential situation of fines, etc. without the being personally able to pay.

Given the enforcement need, DOL should consider preferring or requiring registered investment advisers to work on retirement accounts. Note: There are many fine organizations that require their members work in a client's best interest at all times. While one's membership loss does not lose their license, DOL may be able to modify the situation to everyone's benefit.

Respectfully,

Ted Earl