



For over two decades, Trent Capital has embraced the moral principles of Fiduciary responsibility, not because of being forced into that mode because of regulatory dictate, but by carefully thought out design. This choice has eliminated the many conflicts of interest – perceived, and sadly too often real - that are addressed in the thoughts below. As a *Registered Investment Advisor*, we have only our client’s best interest at heart, which are logically, as well as legally, in tow with every action we take on their behalf, because our client’s best interests and Trent Capital’s are in perfect alignment.

Investment Fraud - Lawyers Blog

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Are Brokerage Firms Really the Trusted Financial Advisers that Their Advertisements Claim they Are?

Expecting licensed professionals who provide investment advice to act in their clients’ best interests “should be a basic tenet of the business,” but brokerage firms and their brokers don’t want that fiduciary yoke, says Karen Blumenthal in her InvestmentNews article, “[When Your Adviser Can’t Be Trusted.](#)”

<http://online.wsj.com/article/SB10001424052748704629104576190762127412104.html#printMode>

Moreover, they don’t want the public to know that they don’t want to be held to a fiduciary standard. So, while brokerage firms profess to be trusted advisers or like a member of a client’s family in their advertising, their lobbyists are working hard to persuade the SEC to weaken the “devil in the details” definition of the term “fiduciary” for purposes of governing brokers’ relationships with customers.

The basic idea behind the fiduciary duty is that providers of investment advice stand in a position of trust and confidence with their clients, and, therefore, must always put their clients’ interests first. The SEC is supposed to come out with new rules to bring the entire financial industry in line with this fiduciary standard of care, but that effort is being held up by the two Republican members of the commission, who apparently want more information about this idea of brokers putting their clients’ interests first.

One might ask why this is even an issue. The National Association of Securities Dealers (the former NASD now known as FINRA, the association to which all brokerage firms belong) said in the June 22, 1940 edition of N.A.S.D. News: “The law will not permit a broker or agent to put himself in a position where he can be influenced by any considerations other than those to best interests of his customer or principal.” In other words, brokers have been supposed to act like fiduciaries for the past 70 years.

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Notwithstanding this pronouncement of the self-regulatory organization governing brokerage firms, brokerage firms routinely maintain that they are not fiduciaries but mere salesman or order takers. They contend that the world of investment advisers is currently divided into two kingdoms: (1) registered investment advisers and their representatives, and (2) broker-dealers and their representatives. The former are clearly governed by the Investment Advisors Act of 1940 and are required to operate under full-fledged fiduciary duties. The latter are your typical brokerage firms – Merrill Lynch, Morgan Stanley, etc. who take the position that they operate under the “suitability rule,” which is a far-less-stringent standard of care.

It is an important distinction, says Ms. Blumenthal. Currently, broker-dealers who advise individuals argue that they must only recommend investments that they have determined, after a diligent inquiry, are “suitable” for their clients. But that means they can recommend “the least suitable of suitable investments” and still comply with the suitability rule, Barbara Roper, director of investor protection for the Consumer Federation of America, was quoted as saying.

“By contrast, registered advisers not only have to put customers’ interests first, but also must either eliminate or disclose any conflicts of interest, including fees or commissions. Broker-dealers’ conflicts of interest sometimes aren’t disclosed until a transaction is completed.”

Where do you fit in? “If you aren’t sure, you have lots of company, according to Ms. Blumenthal, who adds: “The distinction is lost on most investors...”

Ms. Blumenthal offered some advice on what customers can do to protect themselves, which is basically, ask them if they will assume the same fiduciary duties that are required of investment advisers under the Investment Advisors Act and do it in writing. Now, what she doesn’t say is this: anticipate a confusing, non-yes or no answer that seems to try to put you on the defensive, but stick to your guns.

Also, check out what, if any, complaints and violations your broker/advisor has disclosed on www.adviserinfo.sec.gov and www.brokercheck.finra.org .