

## Background

### Basis for Fiduciary Duty

- UPI
- ERISA
- UPMIFA

### Requirements

- Duty of Loyalty
- Duty of Good Faith
- Duty of Good Care
  - \*Put the client's best interest first and act prudently

Why Important - Personally Liable

### In Practice

How do you show you complied? Document Everything – Generate a record & Create a Compliance library

- Duty – Recognize your obligations
- Policy - Document your way of addressing your duties
- Procedure – Document how you followed the policy to address your duties
- Record – Document your actions to show you prudently complied with obligations
  - \*REPEAT at least ANNUALLY\* (Maybe Quarterly)

**Duties** – List your legally required obligations

- Duty of Loyalty - always put the clients best interest first
- Duty of Good Faith – fundamental obligation to treat all clients fairly
- Duty of Care - Act Prudently (Varies depending on circumstances)
  - Prudently Administer
    - Return Objectives
    - Risk Expectations
    - Diversify
    - Fair Fees
  - Prudently Delegate – if you are not an expert, you are required to hire experts

- Create Investment Policy Statement – Are you done? No.
- Monitor Delegates – Must periodically review and adjust if needed

**Policy** - Address each Duty

- Return Objective
- Distribution
- Risk (SD)
- Bear Market
- Bear Market Rainy Day Fund
- Performance
- Diversification
- Alts
- Fee
- Selection of Professional
- Benchmarks

**Procedure** - Address each component of Policy

- Return Objective
- Distribution
- Risk (SD)
- Bear Market
- Bear Market Rainy Day Fund
- Performance
- Diversification
- Alts
- Fee
- Selection of Professional
- Benchmarks

Document – Create Memo/Record and repeat process periodically – Annually/Quarterly

## **Selection of Professional**

### **Service**

- Buy and Sell securities and other investment products
- Provide advice about securities tailored to the needs of their clients and  
Buy and Sell securities and other investment products
- Provide an array of financial services that vary from provider to provider  
Planning, Buy and Sell & Provide Advice
- Buy life, health and property insurance policies, and other insurance products,  
including annuities.

### **Role**

- Registered Financial Professional - Buy and Sell securities and other investment products
- Investment Adviser - Provide advice about securities tailored to the needs of their clients and  
Buy and Sell securities and other investment products
- Financial Planner - Provide an array of financial services that vary from provider to provider  
Planning, Buy and Sell & Provide Advice
- Insurance Agent - Sell life, health and property insurance policies, and other insurance products, including annuities.

### **Costs/Expenses/Fees**

- Commission Only
  - Registered Financial Professional
  - Financial Planner - RFP
  - Insurance Agent
- Fee Only
  - Registered Investment Advisor /Investment Adviser Representative- Fee based on Assets Under Management. Advisory/Wrap accounts.
  - Financial Planner - Fee for Service and RFP
- Fee Based
  - Registered Investment Advisor /Investment Adviser Representative
  - Financial Planner

## Duty/Standard

- Suitability - As long as an investment recommendation meets a client's defined need and objective, it is deemed appropriate. Only had to recommend investments that were suitable, but not necessarily in their clients' best interest. This means that the products generally fit your needs but may have higher fees or offer the advisor a bigger commission.
- Reg BI – requires broker-dealers to only recommend financial products to their customers that are in their customers' best interests, and to clearly identify any potential conflicts of interest and financial incentives the broker-dealer may have for the sale of those products.
- Fiduciary – Puts client's best interest first. The recommendation is suitable and in the client's best interest.
- Registered Financial Professional –
  - Old – Suitability
  - Current – Reg BI
  - Future – Fiduciary
- Registered Investment Advisor /Investment Adviser Representative - Fiduciary
- Financial Planner – None unless CFP® or performing another Role – RFP or IAR
- Insurance Agent – Varies

## **Moving Forward**

MA Rule

## **Summary**