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Handling Client Complaints

By Joshua Horn – 05/05/2011

Notwithstanding the best client screening and communication with a client over the life of the relationship, financial advisers, like other professionals, are subject to customer complaints, either informal or formal. Handling a complaint properly at the earliest stages may mean the difference in the ultimate outcome. Although the firm's compliance manual should be the primary resource guide when faced with a complaint, there are some things that an adviser should and should not do when faced with a complaint.

All complaints should be handled in the same fashion. The advisor should immediately forward the complaint to those individuals who are designated to handle such matters, namely, a managing principal, compliance officer or legal department. Especially when dealing with a formal complaint, there will be a set deadline to respond. The failure to report a complaint in a timely manner may also jeopardize, among other things, available insurance coverage. Ignoring the complaint or

treating it with therapeutic neglect will inevitably only make the situation worse.

The advisor should also never try to address the complaint on his or her own. All too often an advisor with a longstanding relationship with the now-complaining customer will try to take the matter into the advisor's hands and try to resolve the dispute with the customer outside of proper company channels. Such conduct can be considered settling in the field, which will certainly run afoul of the firm compliance manual and only cause the advisor more problems.

The best advice is to cease all communication with the client regarding the subject matter of the complaint, particularly due to the highly emotional reaction an advisor may have when faced with a complaint. Any communication may only inflame the situation. This situation is further compounded in those instances where the client has not terminated her relationship with the advisor who now is the subject of that very client's complaint. In that situation, the most prudent course is for the advisor to request that his/her managing principal reassign the client to another advisor. Once a client complains about your services, there is no need to continue the relationship; the client has commented on your service.

The next critical component to defending a claim is the condition of the client file. Although a client's file should be up-to-date and complete at all times, it is even more important for the advisor to ensure the completeness of the client file when addressing a complaint. Undoubtedly, compliance and/or legal will want to review

the client file for the purposes of analyzing the substance of the complaint. An incomplete file only hampers that critical review which, in turn, can have a material adverse impact on the defense of the claim. Similarly, compliance and legal must ensure that they retrieve documents (including electronically stored information) relevant to the client/broker relation from all possible sources. For example, a managing principal may have documents in his/her possession regarding the complaining client separate and apart from the advisor's file or stored electronically at the firm.

The failure to gather all documents relating to the complaining client could lead to an incomplete analysis of the complaint or worse, disclosure in the middle of a trial by the managing principal that he failed to turn over certain client-related documents notwithstanding a prior certification that all such documents were produced in the course of the arbitration/judicial proceeding. Such a disclosure in the middle of a trial could irreparably damage an otherwise defensible claim.

Equally important to gathering all documents pertaining to the complaining client is for the advisor not to alter any of those documents. The proper analysis of any claim requires the reviewer to have the complete and accurate picture of the advisor-client relationship, not the picture that the advisor wants to portray.

The advisor should never remove or add something to a file; i.e., a completed know-your-customer questionnaire. Similarly, an advisor should not recreate notes of phone conversations that were never

made in an effort to bolster his version of the events. The explanation to an arbitration panel/judge or jury that the recreated notes reflect what "really" happened will never carry the day.

In the end, the truth always comes out, and, more times than not, at the worst possible time. Not only is this conduct simply dishonest, it can destroy an advisor's credibility with his company and/or the finder of fact. An advisor should never try to play lawyer or compliance officer; there is a reason why those people do what they do.

The most difficult thing for an advisor to do, but the most important, is to carry on his/her business as if there were no complaint. Most advisors will never have to deal with a complaint, but those who do must carry on with their practice. The worst thing that an advisor can do is let the complaint control the advisor's life. The compliance department and legal team will address the complaint and the advisor must trust the process, whatever the process may be.

If an advisor starts looking over her shoulder because of the existence of a complaint, the advisor will not perform as she should. Such a lack of focus on regarding the balance of the advisor's practice could only lead to new complaints.

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