



You Received a Customer Complaint. What Do You Do Next?

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Unfortunately, financial advisers, like many professionals, are targets of customer complaints. All too frequently I hear amazement from advisers because the client who just sued them received top-notch service throughout their relationship. Once you get past the emotion of a customer complaint, the key is what you do next.

The first critical thing to do is to report the claim through your firm's proper channels. Most firms have people, in legal or compliance, who are specifically designated to address customer complaints. Use those resources - that is what they are trained to do.

Also, treating a complaint with therapeutic neglect is never the way to go. First, there may be a deadline imposed by a court or arbitral body by which you have to respond. Second, a delay in reporting a complaint may jeopardize potential insurance coverage, where available. Delay can only make things worse.

Another key is that you should never play lawyer. In other words, never try to deal with the client on your own. Your emotions may get the better of you and make a minor problem a lot worse. In addition, any "off the record" resolution you reach with a customer would be settlement in the field; a certain violation of firm compliance, which can lead to discharge.

You should also be certain that you provide compliance/counsel with your entire paper file as these records will have to be produced in the case; your firm should have maintained all electronic records. In this day and age, courts and arbitrators take a sharp eye to the "misplacement" of records that need to be produced in discovery.

Similarly, never alter anything in your file. Believe it or not, that lie is impossible to keep. In one case I handled a few years ago, I drafted a response to a statement of claim, which included the attachment of rather copious notes by the adviser. These notes were important because they called into question the customer's version of events. The adviser knew I planned to attach the notes to the answer and said nothing about their creation. It was only after months of discovery and questions raised by the customer's attorney did the adviser ultimately admit to me that he fabricated some of the notes after-the-fact. He claimed that the after-the-fact notes reflected what "really happened."

Although the fabricated notes could have represented what really happened, we were ethically required to disclose this issue to our opponent and the arbitration panel. Needless to say, this was one case that did not end well for the adviser.

In the end, there was no need to make up the notes. The adviser could have always testified about his version of the events. By fabricating the notes and losing all credibility with the panel, the adviser took his opportunity to explain himself off of the table.

The moral of the story when faced with a customer complaint is to stay calm. Use the resources the firm has designated, both internally and externally. Never play lawyer and try to take the law in your own hands. And, most importantly, go about your business; let your defense team do its work.