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FORUM

THE MAGAZINE FOR INSURANCE AND FINANCIAL ADVISORS



Advisor² Advisor

- What Lies Ahead
- Stay Far From
The Madding Crowd



CAIFA



Ripped Off!!

Have you ever had your life-changing ideas, tax-savings strategies, solid advice, and intellectual property virtually stolen from you and given to another agent or company to implement? Have you ever brought to light a problem that had “future catastrophe” written all over it, only to have the client act on it with their old agent or brother-in-law, neither of whom had the care or the aptitude to warn them about this problem in the first place?

We have all been there at one time or another, and not just in the beginning of our career. While it doesn't happen as frequently once you are established, when it does happen, there are usually bigger bucks at stake and the discussions take place over the boardroom table instead of the kitchen table.

Insurance agents and financial advisors are by far and away the most vulnerable when it comes to being victims. We have nothing to protect ourselves. The real estate industry has the “buyer agreement.” The dealmakers have “non-circumvention and non-disclosure agreements,” and the lawyers have their “letter of engagement.” In this industry, we have nothing, nada, bupkis, zero.

Unfortunately, there is a very real possibility that the problems may only get worse. The enlightened public is now able to take your recommended insurance/investment portfolio mix and place it directly on the Internet themselves.

In the good ol' days, in a land left far behind the agency era, if there was a problem between agents and an argument of who did what on the case, the two managers of each company would intervene. With an objective view, they would agree to split the case 50/50, 80/20, or whatever was fair and reasonable. The agents would live with it, there was closure and, at the very least, honour in the community.

But those days are gone and the insurance/fund companies only care about getting the “app,” not how it got there. That part is now your responsibility. It is a fact of life. In many ways, the companies who were once the core of your former protection now actually exacerbate the problem.

We hear a lot about the “know your client” concept these days. That phrase finds its origins in the stock market and from the Investment Dealers Association (IDA). While it does mean that you should have an intimate knowledge of your client's risk tolerance, it also means, “if anything goes wrong here buddy you are on your own, and probably derelict in your duty.” So to that end, let's define the client market. My research on this was interesting in that among agents/advisors there are different definitions of what a client is, where the risks are, and what they expect.

Prospect

In these early stage meetings, you are clearly the most vulnerable. This is really “frontier land.” Being left behind at this level is considered part of the given territory by most advisors. It can be like going into a meeting with the proverbial “kick me” sign taped to your back.

Customer

This is someone you have had a transaction or two with, but by and large they use your services to execute their thoughts and instructions. There is no real commitment

or loyalty to you, and there is a high tolerance on behalf of the advisor for being left out of the big picture.

Client

This is where we all want to be. This is a real relationship, one with history, trust and flexibility. This should be and is the lowest “burn area.” But if something goes wrong here, lost of questions on both sides of the fence have to be asked and answered.

One other area where advisors are vulnerable lies in the exchange of information and ideas. With so many investments shows, market updates and estates planning strategies available through the television, the radio and the Internet, people sometimes forget where they first heard that “great” idea. It is a wide-eyed experience to watch a prospect go from being grateful for the timeliness of your warnings and advice, to an amnesiac, all in the space of three weeks. They now claim that they heard your ideas somewhere else, or that they were “already in the market” when you first spoke with them.

In search of a solution so this doesn't happen again, I checked with a lawyer friend of mine and some of the industry's stalwarts. We came up with these thoughts.

Goodwill Agreement

This is a simple one-page document that binds both parties morally. You (the agent/advisor) promise (in writing) to search the entire market for the best product(s) for the client; that you will put the client's interests ahead of your own; and that you will return all calls and be available for other advice free charge (time charges) unless otherwise agreed. For that commitment and loyalty you expect to be paid 100 percent commission on any business that arises from your discussions and suggestions.

This does a couple of things. It forces a dialogue about other advisors or brokers within their circle of influence. If they are out there, you had best know about it right up front. You can choose to deal with it up front or take a walk. Perhaps your client tells you that his brother-in-law just got his license and there will be substantial domestic pressure brought to bear to give him the business, even though your client likes your ideas. **Great ... now you know.** If you feel comfortable with that kind of honesty, you can now decide. Perhaps you'll agree to split the commissions 70-30 or 50-50 just because of the inevitability of it all. Maybe you'll decide you don't want any part of it. The important thing is, you are the one in control. You know before you give away all the "goodies" and you end up being the "snap of the whip" (the last to know something is happening).

Realistically, and in the strictest legal terms, this type of contract may lack legal "certainty." If push comes to shove, you could lose in a courtroom. But I would like to think that before most people put their name to an agreement of this nature, they would check their own moral inventory. Besides, by simply asking them to sign it, they will tell you everything you need to know about them by the way they fail to look you in the eye, or perhaps by a little change in facial colour, or by exhibiting defensive body language. Trust your instincts.


Professional Engagement Agreement

This is usually reserved for the boardroom or for larger cases that require hours of research, presentation, advice and work with their other advisors. In this case, you will charge them an up-front consulting fee (i.e., \$200 an hour for 10 hrs up front = \$2000.00 retainer).

Now, in your case, you may request a higher retainer, or a combination using some form of "split" as in the Goodwill Agreement. Check with your lawyer and find out what is best. Don't wait for, or look for some industry document to come in and save you. Create your own variation of an agreement. This is about taking care of you.

Of course the ultimate question is, what if the client wont sign and I lose the sale?

First of all, you have to decide when to use these items- all the time, sometimes, or perhaps for big deals only. It depends on how much indignity you are used to, or how much more you are willing to take. Being taken advantage of is not healthy. It begets negative energy, which is neither progressive nor fulfilling. It lessens your resolve and confidence in the uniqueness of what you bring to the profession. If you don't feel like a competent, confident power out there, you will continue to attract these low character prospects that make you question yourself and undermine your ability. Have some faith. There are no mistakes out there ... only lessons. If you are going to lose the deal or get jerked around anyway, find out early and move on. These losers are on self-destruct. Leave them behind and move on to a higher class of clientele. Good, honest people need and appreciate solid honest answers from a trusted advisor, for themselves, their business and their families. The right clients are out there by the millions.

...Just a thought 

John Eitel is a writer and a speaker whose 25 years experience in the stock market, offshore, venture capital and insurance worlds, has given him insight into tax efficient solutions to protect preset and estate wealth. For more information, go to www.johneitel.com or contact him at john@johneitel.com