

"Of Love and Other Demons"*

Pine Haven Investment Counsel, Inc. – Commentary –3rd Quarter 2017

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We, at Pine Haven, have been spending a lot of time learning about regulatory changes that came along at the same time as the fiduciary standard which we wrote about last quarter.

One of the concepts is Best Interest for the Client, also known as BIC. The structure of a Registered Investment Adviser's (RIA) business and a fee only structure is only the beginning in keeping the clients' best interest in mind. While on the surface we advisers align ourselves with the investor; the devil is in the details. What is a fair fee structure? How does a client know when a conflict may arise?

Let's face it, if you have hired an adviser, you or a family member most likely were diligent savers and careful stewards of the assets. You've had some education along the way. Now the regulatory powers want to ensure that our well-intentioned acts are documented and transparent. If we seem redundant or patronizing, we don't mean to be, we just want "every i dotted and t crossed" and to protect your assets as best we can. The following are a few areas where conflicts may appear.

Fees: A concept called "level fee" which must now be documented. This idea is that we must not charge more for a certain type of asset over another. In the past, some investment managers would charge a greater management fee for equities rather than bonds and fixed income. The rationale was that equity research is much more involved than fixed income, especially US Treasuries. Equities may be purchased and sold more often and often fixed income is purchased and if it is in the form of individual bonds, they would sit in the portfolio until maturity. Each of these asset classes are on the opposite ends of the spectrum. If we charged less for fixed income, there possibly is a conflict as we may want to invest with more risk, such as equities, for a greater fee. With a level fee, we can potentially be less biased.

Rollovers & Transfers: Advisers must be clear that any transfer or rollovers into accounts, which are managed, will incur a fee. We must remind you of this inherent conflict. When we discuss the options, we must document how we illustrate the costs and benefits to hiring us. We've always endeavored to be clear on this point, but sometimes, it may seem so obvious, all our eyes and ears glaze over.

Custody of assets: This is the crevice most advisers lose sleep over. As an independent adviser we do not intentionally custody your assets, but hold them at another custodian and operate with a Limited Power of Attorney (LPOA). When we debit your account for our fee, the Security and Exchange Commission (SEC) has determined that this constitutes custody, but has waived this practice for additional audits. However, if you've had us wire funds, and asked for standing instructions for potential re-use of those instructions (Standing Letter of Authorization, SLOA), and those instructions, for example, moved assets from a single account to a joint account, that may constitute custody. The funds have moved

partially out of an individual's control and we, as the adviser have assisted. Broker dealers and custodians, such as Charles Schwab and Co., are doing all they can to assist advisers and at the same time protect clients' assets. Broker Dealers have their own set of new regulations which demand even more protection and care of consumers' assets.

With recent news of data breaches at Equifax and the SEC, we can be grateful for the greater regulatory scrutiny over adherence to the investing public's interests. Often these rules feel intrusive, cumbersome and irritating, yet they exist for all of our protection from demons.

And now about the love: Often people expect financial advisers to be buried in the numbers or the science part of our business. It's as if spreadsheets and software can answer key questions regarding personal goals, such as retirement. Of course, behavior and health weigh significantly on financial goals and their attainment. Besides naturally caring for our clients, we need to understand the personal and how it affects the bottom line.

Aging & Financial Services: Every day 10,000 people turn 60 years old. In the 60's, people often start thinking of retirement or at least slowing down. It is also around this time when people may start showing signs of cognitive decline. In this day and age, we can add the speed of technological changes which can magnify potential decline. As folks leave the workforce and focus on bigger issues, family and bucket lists, they may naturally loosen their acuity with regard to financial management. While the population ages, it is also becoming more solitary. Where families used to be the norm, we are more disperse and create our own families, communities and safety nets.

The regulatory bodies have noted this particular vulnerability and are now instituting another new concept of a "Trusted Contact". We aren't prying, but we will be asking, who has your back? The trusted contact must be 18 years or older and be available to your financial institutions should something look amiss. This is a developing area of focus, yet we may reach out to your trusted contact in cases of unusual seeming behavior, potential fraud or other concerns where simply contacting you directly is not possible or not productive. The regulatory agencies, FINRA, SEC, Certified Financial Planner Board of Standards and the States, will be watching and auditing how we manage our stewardship of your assets, as will your custodians.

Considering the seeming daily news of data breaches, you might consider the numerous regulations and protections futile. Governmental, regulatory and financial institutions must continue to safeguard your assets as best we can in a rapidly changing world. We must also be individually vigilant and create ways to monitor our own assets; we must complete our due diligence when we entrust other professionals with our sensitive information and we must have quality relationships for others to become a trusted contact.

*Of Love and Other Demons is a book of short stories by Gabriel Garcia Marquez.