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A Stand for Fiduciary

Synopsis: ***Here's a tour of the new Code of Ethics and Practice Standards for CFP professionals.***

A couple of months back, I noted the presence, on the CFP Board's Commission on Standards, of some people with mighty tight connections to the brokerage and wirehouse world, and warned that the Commission might be planning to release a combined Code of Ethics and Practice Standards document that would fall disappointingly short of a fiduciary standard.

I was wrong. As it turns out, I was lowering my readers' expectations at a time when the Commission was preparing to exceed them.

On June 20, the Board released its Code of Ethics and Standards of Conduct, a single document that proposes to replace the existing CFP world's Ethics Code and Practice Standards. It puts the fiduciary standard right on the first page, defining it strictly and managing to execute the balancing act that the DOL never managed: require all CFP professionals to act as a fiduciary at all times, without imposing a lot of regulatory clutter around the requirement. This is good, sound principles-based regulation.

Better yet, the Board has provided ample time for feedback from the CFP community: a 60-day comment period ends Monday, August 21, 2017, with public forums to be held in eight U.S. cities. I do not expect the forums to be contentious, and I expect the feedback will be more of the nitpicky variety than some kind of howling demand for something stronger or more inclusive.

What is there to like about the release? It refers not to CFP Practitioners, but to CFP Professionals, and the goal is clearly to help us advance toward true professionalism. It articulates a duty to avoid conflicts, and then offers very strong disclosure language that goes beyond informing clients that the advisor is receiving commissions; it extends the disclosure to gifts, benefits or other considerations that might compromise a CFP professional's objectivity—and the professional decides where to draw that line. If you accept commissions, you must still act in the best interests of the client. I can see commissions gradually fading away as the implication of this principle begins to sink in.

There's a strong definition of "fee-only," and strong disapproval of the slippery term "fee-based"—including an injunction not to use it to mislead the client into thinking that an advisor is only compensated by fees from the client. If the CFP professional is paying an accountant to refer business, he or she must disclose this clearly to the client. Whenever CFP professionals recommend an outside professional to provide services to a client, the recommendation must be based on merit, not on some cross-referral arrangement. CFP professionals will have to perform due diligence on the planning and other software they use to help them generate client recommendations.

And, as you'll see in a moment, the Six Step Process will become, if these standards are adopted, a 7-Step Process.

After reading through the document for the fifth time, I feel like cheering. Now, on the following pages, I'd like to give you my personal tour of the brand new Code of Ethics and Standards of Conduct, with my own nitpicky observations and occasional thump on the back for bits and pieces that I think are especially good. This might help you get a better handle on the logic of the Commission, and see quickly and easily how the new Code and Standards differ from what we're used to.

Code of Ethics and Standards of Conduct

Preamble

CFP Board's Code of Ethics and Standards of Conduct reflects the commitment that all CFP® professionals make to high standards of competency and ethics. CFP Board's Code and Standards benefits and protects the public, provides standards for delivering financial planning, and advances financial planning as a distinct and valuable profession. Compliance with the Code and Standards is a requirement of CFP® certification that is critical to the integrity of the CFP® marks. Violations of the Code and Standards may subject a CFP® professional to discipline.

"*Act in the client's best interests*" -- Already we have the foundation of a fiduciary standard in the first page of requirements.

Code of Ethics

A CFP® professional must:

1. Act with honesty, integrity, competence, and diligence.

2. Act in the client's best interests.

3. Exercise due care.

4. Avoid or disclose and manage conflicts of interest.

5. Maintain the confidentiality and protect the privacy of client information.

6. Act in a manner that reflects positively on the financial planning profession and CFP® certification.

Hurray! This is the word we've been waiting for. But... Only when providing financial advice? What does "providing financial advice" mean? On pages 16-17, "financial advice is defined as:

A communication that...would reasonably be viewed as a suggestion that the Client take or refrain from taking a particular course of action with respect to the development or implementation of a financial plan..., the... advisability of investing in, purchasing, holding, or selling Financial Assets; investment policies or strategies, portfolio composition, the management of Financial Assets, or other financial matters.

But then it says: *The provision of services or the furnishing or making available of marketing materials, general financial education materials, or general financial communications that a reasonable person would not view as Financial Advice, does not constitute Financial Advice.*

Does this open the door to a CFP advisor engaging in sales activities that would NOT be in the best interests of the client, so long as he or she is carefully providing marketing materials?

Standards of Conduct

A. Duties Owed to Clients

1. Fiduciary Duty

A CFP® professional must at all times act as a fiduciary when providing Financial Advice to a Client, and therefore, act in the best interest of the Client. In this regard:

a. Duty of Loyalty. A CFP® professional must:

i. Place the interests of the Client above the interests of the CFP® professional and the CFP® Professional's Firm;
ii. Seek to avoid Conflicts of Interest, or fully disclose Material Conflicts of Interest to the Client, obtain the Client's informed consent,

and properly manage the conflict; and

iii. Act without regard to the financial or other interests of the CFP® professional, the CFP® Professional's Firm, or any individual or entity other than the Client, which means that a CFP® professional acting under a Conflict of Interest continues to have a duty to act in the best interest of the Client and place the Client's interest above the CFP® professional's.

b. Duty of Care. A CFP® professional must act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances.

c. Duty to Follow Client Instructions. A CFP® professional must comply with all objectives, policies, restrictions, and other terms of the Engagement and all reasonable and lawful directions of the Client.

2. Competence

If the CFP professional doesn't have the requisite competence to handle a client situation, there is a duty to bring in a qualified professional.

A CFP® professional must provide Professional Services with competence, which means with relevant knowledge and skill to apply that knowledge. When the CFP® professional does not have sufficient competency in a particular area to provide the Professional Services required under the Engagement, the CFP® professional must gain competence, obtain the assistance of a competent professional, limit or terminate the Engagement, and/or refer the Client to a competent professional. The CFP® professional shall describe to the Client any requested Professional Services that the CFP® professional will not be providing.

3. Diligence

A CFP® professional must provide Professional Services, including responding to reasonable Client inquiries, in a timely and thorough manner.

4. Sound and Objective Professional Judgment

Strong language here. The CFP professional may not solicit or accept any gift, benefit, compensation or other consideration that would compromise his/her objectivity.

That would seem to include a commission. Would it also include gifts or a paid dinner from a fund wholesaler? That's up to you; this is a principles-based standard.

A CFP® professional must exercise professional judgment on behalf of the Client that is not subordinated to the interest of the CFP® professional or others. A CFP® professional may not solicit or accept any gift, benefit, compensation, or other consideration that reasonably could be expected to compromise the CFP® professional's objectivity.

5. Integrity

A CFP® professional must perform professional activities with integrity. Integrity demands honesty and candor, which may not be subordinated to personal gain or advantage. Allowance may be made for innocent error and legitimate differences of opinion, but integrity cannot co-exist with deceit or subordination of principle. A CFP® professional may not, directly or indirectly, in the conduct of professional activities:

a. Employ any device, scheme, or artifice to defraud;

b. Make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

c. Engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

> You're not allowed to defraud or lie to your clients. Bernie Madoff would have lost his CFP designation if he'd had one.

6. Professionalism

A CFP® professional must treat Clients, prospective Clients, fellow professionals, and others with dignity, courtesy, and respect.

7. Comply with the Law

a. A CFP® professional must comply with the laws, rules, and regulations governing professional activities.

b. A CFP® professional may not intentionally or recklessly participate or assist in another person's violation of these Standards or the laws, rules, or regulations governing professional activities.

> Seems a bit obvious, although... what are the "*regulations governing professional activities?*" Maybe this could be defined better, unless it refers to the Code itself.

8. Confidentiality and Privacy

a. A CFP® professional must keep confidential and may not disclose any non-public personal information about any prospective, current, or former Client ("client"), except that the CFP® professional may disclose information:

i. For ordinary business purposes:

With the client's consent, so long as the client has not withdrawn the consent;

To a CFP® professional's employer, partners, employees, or other persons with whom the CFP® professional is providing services to or for the client, when necessary to perform those services;

As necessary to provide information to the CFP® professional's attorneys, accountants, and auditors;

To a person acting in a representative capacity on behalf of the client;

ii. For legal and enforcement purposes:

a) To law enforcement authorities concerning suspected unlawful activities, to the extent permitted by the law;

> You must protect client information. Note that this general invocation would cover cybersecurity policy without getting specific about how. The Board is providing principles-based regulation to good effect here.

> There are times when you must provide client information to regulatory and legal authorities.

b) As required to comply with federal, state, or local law;

c) As required to comply with a properly authorized civil, criminal, or regulatory investigation or examination, or subpoena or summons, by a governmental authority;

d) As necessary to defend against allegations of wrongdoing made by a governmental authority;

e) As necessary to present a civil claim against, or defend against a civil claim raised by, a client;

f) As required to comply with a request from CFP Board concerning an investigation or adjudication; and

g) As necessary to provide information to professional organizations that are assessing the CFP® professional's compliance with professional standards.

Notice that the CFP Board includes itself in the list of exceptions to maintaining client confidentiality. One suspects that some investigations have been hampered when the CFP professional under scrutiny pled that he was duty-bound not to disclose any client information.

Also, in g, this might have been a concession to NAPFA and the FPA, to allow them to make inquiries about whether to expel members. But... Would the SEC regard these as legal exceptions to client privacy?

b. A CFP® professional may not use any non-public personal information about a client for his or her direct or indirect personal benefit, whether or not it causes detriment to the client, unless the client consents.

c. A CFP® professional, either directly or through the CFP® professional's Firm, must take reasonable steps to protect the security of non-public personal information about any client, including the security of information stored physically or electronically, from unauthorized access that could result in harm or inconvenience to the client.

d. A CFP® professional, either directly or through the CFP® Professional's Firm, must adopt and implement policies regarding the protection, handling, and sharing of a client's non-public personal information and must provide clients with written notice of those policies.

CFP professionals must disclose conflicts of interest, and the language seems to be pretty strong.

What about disclosure and consent that is buried on page 78 in small type of a client agreement? Section i. seems to address that; would a reasonable client have understood the disclosure?

Any reasonable interpretation should exclude tricky disclosures that are obscured by clever verbiage or hidden in a weighty document. And remember, earlier, CFP professionals are required to avoid conflicts first, before disclosing the ones they can't avoid.

9. Disclose and Manage Conflicts of Interest

a. Disclose Conflicts. When providing Financial Advice, a CFP® professional must make full disclosure of all Material Conflicts of Interest with the CFP® professional's Client that could affect the professional relationship. This obligation requires the CFP® professional to provide the Client with sufficiently specific facts so that the Client is able to understand the CFP® professional's Conflicts of Interest and the business practices that give rise to the conflicts, and give informed consent to such conflicts or reject them. A sincere belief by a CFP® professional with a Material conflict that he or she is acting in the best interest of the Client is insufficient to excuse failure to make full disclosure.

i. In determining whether to infer that a Client has consented to a Material Conflict of Interest, CFP Board will evaluate whether a reasonable Client receiving the disclosure would have understood the conflict and how it could affect the advice the Client will receive from the CFP® professional. The greater the potential harm the conflict presents to the

Interesting language that almost slips past the eye: "*Written consent to a conflict is not required*." The sentence sits there alone, all by itself. Was this a compromise provision won by the brokerage-affiliated members of the commission? But... Since I question the effectiveness of "informed consent," this provision doesn't bother me. Does it you?

What appeared to be a weakening provision is followed by a strengthening one. If you accept commissions, you must still act in the best intrests of the client. Hooray!

Note (here and on next page) we have separate disclosure sections for prospects and for clients.

You must disclose your conflicts, and specifically regarding proprietary products; if you're limited in what you can offer; and "additional compensation." But... why avoid use of the term "commissions?"

If you've gotten in regulatory hot water, you have to provide a link to the BrokerCheck or other website where this information can be found. Wouldn't it be easier to require the CFP professional to provide this information directly? (As we'll see, two sections later the standards do actually impose this requirement.)

Client, and the more significantly a business practice that gives rise to the conflict departs from commonly accepted practices among CFP® professionals, the less likely CFP Board will infer informed consent absent clear evidence otherwise. Ambiguity in the disclosure provided to the Client will be interpreted in favor of the Client.

ii. Written consent to a conflict is not required.

b. Manage Conflicts. A CFP® professional must adopt and follow business practices reasonably designed to prevent Material Conflicts of Interest from compromising the CFP® professional's ability to act in the Client's best interests.

10. Provide Information to a Prospective Client

a. A CFP® professional must provide to a prospective Client (a person to whom the CFP® professional reasonably anticipates providing Financial Advice) a plain English summary of Material information about the CFP® professional and the CFP® Professional's Firm ("Introductory Information").

b. A CFP® professional will satisfy the requirements of this Standard by delivering to a prospective Client a properly-completed Form ADV Parts 2A and 2B, a substantially-similar document, or a document containing the following information:

i. A description of the services and categories of financial products that the CFP® professional offers to clients;

ii. A description of how the Client pays, and how the CFP® professional and the CFP® Professional's Firm are compensated, for providing services and products;

iii. A brief summary of the following Conflicts of Interest (if applicable): the offering of proprietary products, receipt of third-party payments for recommending products, material limitations on the universe of products, the receipt of bonuses or other non-cash compensation for selling products, and the receipt of additional compensation when the Client increases the amount of assets under management; and

iv. A link to or URL for the relevant webpages of any public website of any governmental authority, self-regulatory organization, or professional organization, that sets forth the CFP® professional's public disciplinary history or any personal bankruptcy or business bankruptcy where the CFP® professional was a Control Person, if any.

c. A CFP® professional must provide the Introductory Information at the time of the initial consultation or as soon as practicable thereafter.

d. A CFP® professional must provide the Introductory Information in writing unless the CFP® professional has a reasonable basis for providing the information orally, taking into account the anticipated scope of services to be provided, the firm's business practices, and the prospective Client's preferences. A CFP® professional may deliver the Introductory Information electronically.

Interesting qualification here: "*When required to comply with the Practice Standards*." When is the CFP professional NOT required to comply with the practice standards?

In a conversation with the CFP Board, I was told that the standards are not intended to apply in situations where the CFP professional functions as an order-taker and facilitator for a client who is self-directed. That seems reasonable, but I might have preferred to see it spelled out more clearly.

e. Prior to entering into an engagement, a CFP® professional must disclose to the prospective Client any Material changes to the Introductory Information.

11. Provide Information to a Client

a. When required to comply with the Practice Standards, a CFP® professional must provide the following information to the Client, prior to the time of the Engagement, in one or more written documents, if not previously provided in writing:

i. The terms of the Engagement between the Client and the CFP® professional or the CFP® Professional's Firm, including the Scope of the Engagement and any limitations, the period(s) for which the services will be provided, and the Client's responsibilities;

ii. A description of how the Client pays, and how the CFP® professional and the CFP® Professional's Firm are compensated, for providing services and products to the Client;

iii. A description of the additional types of costs that the Client may incur, including product management fees, surrender charges, and sales loads;

iv. Identification of any Related Party that will receive compensation for providing services or offering products;

v. Full disclosure of all Material Conflicts of Interest;

vi. A link to or URL for the relevant webpages of any public website of any governmental authority, self-regulatory organization, or professional organization, that sets forth the CFP® professional's public disciplinary history or any personal bankruptcy or business bankruptcy where the CFP® professional was a Control Person, if any; and

vii. Any other information about the CFP® professional or the CFP® Professional's Firm that is Material to a Client's decision to engage or continue to engage the CFP® professional or the CFP® Professional's Firm.

Very similar language to what must be disclosed to a prospect, and how, except instead of a "brief summary" of conflicts, now the CFP professional must make "full disclosure."

b. A CFP® professional must provide to the Client, in writing, any information that is a Material change or update to the information required to be provided to the Client in writing. This information must be provided at least annually, except for public disciplinary history or bankruptcy information, which must be disclosed to the Client within ninety days, together with a link to or URL for the relevant webpages.

Any material change to your business operations must be disclosed at least annually.

12. Document

The CFP Board's version of the "know your client" rule.

In providing Financial Advice, a CFP® professional must act prudently in documenting information that the facts and circumstances require to be documented to act in the best interest of the Client, taking into account the significance of the information and the need to preserve the information in writing.

13. Duties When Communicating with a Client

a. A CFP® professional must provide a Client with accurate information, in accordance with the Engagement, and in response to reasonable Client requests, in a manner and format that a Client reasonably may be expected to understand.

Twice earlier (to prospects and then to clients), the CFP professional was required to provide a URL link to any relevant disciplinary history. Now it must be disclosed. In what form?

b. A CFP® professional must disclose to Clients any public disciplinary history or any personal bankruptcy or business bankruptcy where the CFP® professional was a Control Person.

14. Duties When Representing Compensation Method

A CFP® professional may not make false or misleading representations regarding the CFP® professional's or the CFP® Professional's Firm's method(s) of compensation.

Let's call this the "Camarda Rule;" the CFP Board is explicitly defining what was previously implied in the Code: that if you receive "sales-related compensation," you cannot call yourself "fee-only."

a. Specific Representations

i. Fee-Only. A CFP® professional may represent his or her compensation method as "fee-only" only if:

The CFP® professional and the CFP® Professional's Firm receive no Sales-Related Compensation; and

Related Parties receive no Sales-Related Compensation in connection with any Professional Services the CFP® professional or the CFP® Professional's Firm provides to Clients.

Three cheers for the commission! They explicitly denounce the sly "fee-based" terminology.

ii. Fee-Based. CFP Board uses the term "fee and commission" to describe the compensation method of those who receive both fees and Sales-Related Compensation. A CFP® professional who represents that his or her compensation method is "fee-based" must:

a) Not use the term in a manner that suggests the CFP® professional or the CFP® Professional's Firm is fee-only; and

b) Clearly state that either the CFP® professional earns fees and commissions, or the CFP® professional is not fee-only.

Three more cheers: they tell us explicitly that sales-related compensation is more than a *de-minimis* economic benefit, and finally use the word "commissions."

b. Sales-Related Compensation. Sales-Related Compensation is more than a *de minimis* economic benefit for purchasing, holding for purposes other than providing Financial Advice, or selling a Client's Financial Assets, or for the referral of a Client to any person or entity. Sales-Related Compensation includes, for example, commissions, trailing

This defines what is NOT sales-related compensation. It is not soft dollars, and it would appear not to be monies paid for NTF funds or the provision of additional software services by broker-dealers or custodians as their value-add.

commissions, 12(b)1 fees, spreads, charges, revenue sharing, referral fees, or similar consideration. Sales-Related Compensation does not include:

i. Soft dollars (any research or other benefits received in connection with Client brokerage that qualifies for the "safe harbor" of Section 28(e) of the Securities Exchange Act of 1934);

ii. Reasonable and customary fees for custodial or similar administrative services if the fee or amount of the fee is not determined based on the amount or value of Client transactions; or

iii. The receipt by a Related Party solicitor of a fee for soliciting clients for the CFP® professional or the CFP® Professional's Firm.

The idea here is to close any loopholes: *My financial planning firm referred all life insurance sales activity over to my separate insurance subsidiary, so I'm fee-only.* Not!

c. Related Party. A person or business entity (including a trust) whose receipt of Sales-Related Compensation a reasonable CFP® professional would view as benefiting the CFP® professional or the CFP® Professional's Firm, including, for example, as a result of the CFP® professional's ownership stake in the business entity. There is a rebuttable presumption that a Related Party includes:

i. Family Members. A member of the CFP® professional's family and any business entity that the family or members of the family control; and

ii. Business Entities. A business entity that the CFP® professional or the CFP® Professional's Firm controls, or that is controlled by or is under common control with, the CFP® Professional's Firm. Control is the power, directly or indirectly, to direct the management or policies of a business entity, whether through ownership of securities, by contract or otherwise.

d. In Connection with any Professional Services. Sales-Related Compensation received by a Related Party is "in connection with any Professional Services" if it results, directly or indirectly, from Client transactions referred or facilitated by the CFP® professional or the CFP® Professional's Firm.

Lets call this the Rick Kahler exemption; he had ownership interest in a real estate brokerage company that received commissions, but he never referred any clients to it. Under the previous rules, this was deemed to be a conflict and disqualified Kahler from calling himself fee-only. Apparently the Board wanted to clarify that this was not an actual conflict.

e. Safe Harbor for Related Parties. Sales-Related Compensation received by a Related Party is not "in connection with any Professional Services" if the CFP® professional or the CFP® Professional's Firm adopts and implements policies and procedures reasonably designed to prevent the CFP® professional or the CFP® Professional's Firm from recommending that any Client purchase Financial Assets from or through, or refer any Clients to, the Related Party.

f. Misrepresentations by a CFP® Professional's Firm. A CFP® Professional who controls the CFP® Professional's Firm may not allow the CFP® Professional's Firm to make false or misleading representations of compensation method. A CFP® Professional who does not control the

Three more cheers! You've all seen John Bowen recommend that you enter into arrangements with local attorneys or CPAs where you'll pay them for any client referrals they provide, usually out of your AUM revenue. The CFP Board wants you to select your outside professionals on merit rather than self-interest, and disclose any conflicting arrangements up-front.

Still ambiguous: do you have to disclose cross-referral arrangements? That would seem to be covered under "*other material economic benefit,*" but the language could be more specific.

CFP® Professional's Firm must correct a CFP® Professional's Firm's misrepresentations of compensation method by accurately representing to the CFP® Professional's Clients the CFP® Professional's compensation method.

15. Duties When Recommending, Engaging, and Working with Additional Persons

a. When engaging or recommending the selection or retention of additional persons to provide financial or Professional Services for a Client, a CFP® professional must:

i. Have a reasonable basis for the recommendation or Engagement based on the person's reputation, experience, and qualifications;

ii. Disclose to the Client, at the time of the recommendation or prior to the Engagement, any arrangement by which someone who is not the Client will compensate or provide some other material economic benefit to the CFP® professional, the CFP® Professional's Firm, or a Related Party for the recommendation or Engagement; and

iii. When engaging a person to provide services for a Client, exercise reasonable care to protect the Client's interests.

b. When working with another financial or Professional Services provider on behalf of a Client, a CFP® professional must:

i. Communicate with the other provider about the scope of their respective services and the allocation of responsibility between them; and

ii. Inform the Client if the CFP® professional has a reasonable belief that the other provider's services were not performed in accordance with the scope of services to be provided and the allocation of responsibilities.

This is new. CFP professionals are required to do due diligence on the software you're using, and understand the assumptions that are built into the planning software you use for clients. This would also appear to cover tax and investment software products.

Seems reasonable. But... Does this open the door to CFP continuing education credits for educational sessions regarding the relative merits of software products and software due diligence?

16. Duties When Selecting, Recommending, and Using Technology

a. A CFP® professional must exercise reasonable care and judgment when selecting, using or recommending any software, digital advice tool, or other technology while providing Professional Services to a Client.

b. A CFP® professional must have a reasonable level of understanding of the assumptions and outcomes of the technology employed.

c. A CFP® professional must have a reasonable basis for believing that the technology produces reliable, objective, and appropriate outcomes.

17. Refrain from Borrowing or Lending Money and Commingling Financial Assets

a. A CFP® professional may not borrow money from or lend money to a Client unless:

i. The Client is a member of the CFP® professional's immediate family (parents, grandparents, mother-in-law or father-in-law, spouse, spousal equivalent, or domestic partner, brother or sister, brother-in-law or sister-in-law, son-in law or daughter-in-law, children, grandchildren, cousin, aunt or uncle, or niece or nephew, and any other person whom the CFP® professional supports, directly or indirectly, to a material extent), or

ii. The lender is a business organization or legal entity in the business of lending money.

b. A CFP® professional may not commingle a Client's Financial Assets with the Financial Assets of the CFP® professional or the CFP® Professional's Firm.

Thus ends the Code of Conduct. This section is about Practice Standards.

I love the definition of financial planning here. It's one of the best I've seen.

B. Financial Planning and Application of the Practice Standards for the Financial Planning Process

1. Financial Planning Definition. Financial Planning is a collaborative process that helps maximize a Client's potential for meeting life goals through Financial Advice that integrates relevant elements of the Client's personal and financial circumstances.

2. Examples of Relevant Elements of the Client's Personal and Financial Circumstances. Relevant elements of personal and financial circumstances vary from Client to Client, and may include the Client's need for or desire to: develop goals, manage a budget, identify and manage risk, address health considerations, provide for educational needs, achieve financial security, preserve or increase wealth, manage taxes, prepare for retirement, pursue philanthropic interests, and address estate and legacy matters. (Not investment advice?)

3. Application of Practice Standards. The Practice Standards set forth the financial planning process. A CFP® professional must comply with the Practice Standards when:

a. The CFP® professional agrees to provide or provides (i) Financial Planning; or (ii) Financial Advice that requires integration of relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interest; or

b. The Client has a reasonable basis to believe the CFP® professional will provide or has provided Financial Planning.

The CFP professional only has to comply with the Practice Standards when in a financial planning engagement with a client, or when the client reasonably believes there is one. But remember; he or she ALWAYS has to adhere to the Code of Conduct outlined in the previous section.

Here, the CFP Board is helping define whether the practice standards apply, and laying out its logic. But weren't we told a few lines ago that if the client believes it to be a financial planning engagement, then it is in the CFP Board's eyes? Why is this presumption suddenly "rebuttable?"

4. Rebuttable Presumption that the Practice Standards Apply. There is a rebuttable presumption that a CFP® professional providing Financial Advice is required to integrate relevant elements of the Client's personal and/or financial circumstances in order to act in the Client's best interest, and thus is required to comply with the Practice Standards. Among the factors that CFP Board will weigh are:

a. The number of relevant elements of the Client's personal and financial circumstances that the Financial Advice affects;

b. The portion and amount of the Client's Financial Assets that the Financial Advice may affect;

c. The length of time the Client's personal and financial circumstances may be affected by the Financial Advice;

d. The effect on the Client's overall exposure to risk if the Client implements the Financial Advice; and

e. The barriers to modifying the actions taken to implement the Financial Advice.

A client doesn't want planning; he just wants you to manage his investments. The Practice Standards would appear not to apply (but the Code of Conduct would).

A client simply wants you to execute trades on his behalf. Similarly, these Standards would not be relevant to the engagement.

5. No Client Agreement to Engage for Financial Planning. If a CFP® professional must comply with the Practice Standards to provide the requested services, but the Client does not agree to engage the CFP® professional to provide Financial Planning, the CFP® professional must inform the Client how that decision may constrain the CFP® professional's Financial Advice, and:

a. Limit the Scope of the Engagement to services that do not require application of the Practice Standards, and describe to the Client the services the Client requests that the CFP® professional will not be performing;

b. Not enter into, or terminate the Engagement; or

c. Provide the requested services subject to the constraint that occurs from not providing Financial Planning.

The CFP Board's "know your client rule" applies to the Practice Standards as well as the Code of Conduct.

C. <u>Practice Standards for the Financial Planning Process</u>

1. Understanding the Client's Personal and Financial Circumstances

a. Obtaining Qualitative and Quantitative Information. A CFP® professional must describe to the Client the qualitative and quantitative

The Commission has boldly rewritten the famous "Six Step Process." This is Step 1 (formerly *"Defining the Scope of the Engagement;"* now collecting and analyzing the relevant client information) and the other steps will be described in turn.

As you'll see in a minute, if these Practice Standards are adopted as they stand, six steps will have become seven steps.

information concerning the Client's personal and financial circumstances needed to fulfill the Scope of the Engagement, and collaborate with the Client to obtain the information.

i. Examples of qualitative information include the Client's health, life expectancy, family circumstances, values, attitudes, expectations, earnings potential, financial experiences, risk capacity and tolerance, goals, needs, priorities, and current course of action.

ii. Examples of quantitative information include the Client's age, assets, liabilities, income, expenses, cash flow, taxes, employee benefits, savings, government benefits, available resources, liquidity, insurance coverage, estate plans, education plans, and retirement plans.

b. Analyzing Information. A CFP® professional must analyze the qualitative and quantitative information to assess the Client's personal and financial circumstances.

c. Addressing Incomplete Information. If unable to obtain information necessary to fulfill the Scope of the Engagement, the CFP® professional must either limit the Scope of the Engagement to those services the CFP® professional is able to provide or terminate the Engagement.

Step 2 (previously "*Gathering Client Data*") is now helping the client identify goals. Some advisors might think THIS should be Step 1, before you collect client information. But the CFP Board appears to require you to have the information in hand to assess the reasonableness of client goals, and steer clients away from goals that cannot be achieved based on their current financial situation. It will be interesting to see the comments as they come in.

2. Identifying and Selecting Goals

a. Identifying Goals. A CFP® professional must discuss with the Client the CFP® professional's assessment of the Client's financial and personal circumstances, and help the Client identify goals, noting the impact that selecting a particular goal may have on other goals. In helping the Client identify goals, the CFP® professional must discuss with the Client, and apply, reasonable assumptions and estimates. These may include life expectancy, inflation rates, tax rates, investment returns and other Material assumptions and estimates.

b. Selecting Goals. A CFP® professional must help the Client select goals. The CFP® professional must discuss with the Client any goals the Client has selected that the CFP® professional believes are not realistic.

Step 3 (formerly "*Analyzing and Evaluating the Client's Financial Status*") is now: Evaluate different potential courses of action. But isn't this redundant with Step 4?

3. Analyzing the Client's Current Course of Action and Potential Recommendation(s)

a. Analyzing Current Course of Action. A CFP® professional must analyze the Client's current course of action, including the material advantages and disadvantages of the current course and whether the current course maximizes the potential for meeting the Client's goals.

b. Analyzing Potential Recommendations. Where appropriate, a CFP® professional must consider and analyze one or more potential recommendations, including the recommendation's material advantages and disadvantages, whether the recommendation helps maximize the potential for meeting the Client's goals, and how the recommendation integrates the relevant elements of the Client's personal and financial circumstances.

4. Developing the Financial Planning Recommendation(s)

Step 4 (formerly "*Developing and Presenting Financial Planning Recommendations*") is now just **developing** those recommendations.

Note the commendably strong language on full disclosure of the assumptions and estimates used to make the evaluations, how the recommendations will impact the client, and the timing and priority of the recommendations.

a. Developing the Recommendation(s). A CFP® professional must select one or more recommendations designed to maximize the potential for meeting the Client's goals. The recommendation may be to continue the Client's current course of action. For each recommendation selected, the CFP® professional must consider the following information:

i. The assumptions and estimates used to develop the recommendation;

ii. The basis for making the recommendation, including how the recommendation is designed to maximize the potential to meet the Client's goals, the anticipated material effects of the recommendation on the Client's financial and personal circumstances, and how the recommendation integrates relevant elements of the Client's personal and financial circumstances;

iii. The timing and priority of the recommendation; and

iv. Whether the recommendation is independent or must be implemented with another recommendation.

5. Presenting the Financial Planning Recommendation(s)

Step 5 is the second half of former Step 4: Presenting the recommendations.

a. Presenting Recommendations. A CFP® professional must present the selected recommendations to the Client and discuss with the Client the information that was required to be considered when developing the recommendation(s).

6. Implementing the Financial Planning Recommendation(s)

Step 6 (formerly Step 5 "*Implementing the Financial Planning Recommendations*") is basically the same concept. But I read through the current and former standard, and this one is stronger and a bit more consumer-friendly.

a. Addressing Implementation Responsibilities. A CFP® professional must discuss with the Client whether the CFP® professional has implementation responsibilities. A CFP® professional is responsible for implementation unless implementation is specifically excluded from the Scope of Engagement. When the CFP® professional has implementation responsibilities, the CFP® professional must communicate to the Client the recommendation(s) being implemented and the responsibilities of the CFP® professional, the Client, and any third-party with respect to implementation.

b. Identifying, Analyzing, and Selecting Actions, Products and Services. A CFP® professional who has implementation responsibilities must identify and analyze actions, products, and services designed to implement the recommendations. The CFP® professional must consider the basis for each selection, which must include:

i. How the action, product, or service is designed to implement the CFP® professional's recommendation; and

ii. The advantages and disadvantages of the action, product, or service relative to reasonably available alternatives.

c. Recommending Actions, Products, and Services for Implementation. A CFP® professional who has implementation responsibilities must recommend one or more actions, products and services to the Client. The CFP® professional must discuss with the Client the basis for selecting an action, product or service, the timing and priority of implementing the action, product or service, and describe any Conflicts of Interest concerning the action, product or service.

d. Selecting and Implementing Actions, Products, or Services. A CFP® professional who has implementation responsibilities must help the Client select and implement the actions, products, or services. The CFP® professional must discuss with the Client any Client selection that deviates from the actions, products, and services the CFP® professional recommended.

7. Monitoring Progress and Updating

a. Addressing Monitoring and Updating Responsibilities. A CFP® professional must discuss with the Client whether the CFP® professional has monitoring and updating responsibilities. A CFP® professional is responsible for monitoring and updating unless monitoring and updating is specifically excluded from the Scope of Engagement. When the CFP® professional has responsibilities for monitoring and updating, the CFP® professional must communicate to the Client:

i. Which actions, products, and services are and are not subject to the CFP® professional's monitoring responsibility;

ii. How and when the CFP® professional will monitor the actions, products, and services;

iii. The Client's responsibility to inform the CFP® professional of any Material changes to the Client's qualitative and quantitative information;

iv. The CFP® professional's responsibility to update the financial planning recommendations; and

v. How and when the CFP® professional will update the financial planning recommendations.

b. Monitoring the Client's Progress. A CFP® professional who has monitoring responsibility must analyze, at appropriate intervals, the progress toward achieving the Client's goals. The CFP® professional must discuss with the Client the results of the CFP® professional's analysis.

Step 7 (formerly Step 6 "*Monitoring*") is expanded from simply "*making a reasonable effort to define and communicate those monitoring activities the practitioner is able and willing to provide*" to an affirmative duty to remain actively engaged with the client through the life of the planning engagement. I especially cheer the requirement to update goals and monitor progress toward existing goals.

The CFP professional has disclosure responsibilities as well as "continuing to know the client" duties.

c. Obtaining Current Qualitative and Quantitative Information. A CFP® professional must collaborate with the Client in an attempt to obtain current qualitative and quantitative information concerning the Client's personal and financial circumstances.

d. Updating Goals, Recommendations or Implementation Decisions. If the progress toward achieving the Client's goals, the Material changes and updates to the Client's qualitative and quantitative information, or other circumstances warrant an update to the goals, recommendations, or selections of actions, products or services, the CFP® professional must update as appropriate in accordance with these Practice Standards.

D. Duties Owed to Employers, Principals, and Subordinates

A new (short) section begins here, outlining the CFP professional's duties in the work environment. Note that the CFP professional will not be subject to discipline for disobeying company rules that conflict with the practice standards.

1. Use Reasonable Care When Supervising

A CFP® professional must exercise reasonable care when supervising persons acting under the CFP® professional's direction, including employees and other persons over whom the CFP® professional has responsibility, with a view toward preventing violations of applicable laws, rules, regulations, and these Standards.

2. Comply with Lawful Objectives of Employer/Principal

A CFP® professional will be subject to discipline by CFP Board for violating policies and procedures of the employer/principal that do not conflict with these Standards. A CFP® professional will not be subject to discipline by CFP Board for violating policies and procedures of the employer/principal that conflict with these Standards.

3. Provide Notice of Public Discipline

A CFP® professional who is an employee/agent must promptly advise his or her current employer/principal, in writing, of any public discipline imposed by CFP Board.

E. Duties Owed to CFP Board

A somewhat longer new section outlines duties owed to the CFP Board. One assumes from the language that the Commission didn't write this; the lawyers wrote it and the Commission approved it.

1. Definitions. The following definitions apply:

a. Felony. A felony offense, or for jurisdictions that do not differentiate between a felony and a misdemeanor, an offense punishable by a sentence of at least one-year imprisonment or a fine of at least $1,000.

b. Relevant Misdemeanor. A criminal offense, that is not a Felony, for conduct involving fraud, theft, misrepresentation, other dishonest conduct, crimes of moral turpitude, violence, or a second (or more) alcohol and/or drug-related offense.

c. Regulatory Investigation. An investigation initiated by a federal, state, or foreign governmental agency, self-regulatory organization, or other regulatory authority.

d. Regulatory Action. An action or proceeding initiated by a federal, state, or foreign governmental agency, self-regulatory organization, or other regulatory authority.

e. Civil Action. A lawsuit, arbitration, or mediation.

f. Finding. A finding includes an adverse final action and a consent decree in which the finding is neither admitted nor denied, but does not include a deficiency letter, examination report, memorandum of understanding, or similar informal resolution of a matter.

2. Refrain from Adverse Conduct. A CFP® professional may not engage in conduct that reflects adversely on his or her integrity or fitness as a CFP® professional, upon the CFP® marks, or upon the profession. Such conduct includes, but is not limited to conduct that results in:

a. A Felony or Relevant Misdemeanor conviction, or admission into a program that defers or withholds the entry of a judgment of conviction for a Felony or Relevant Misdemeanor;

b. A Finding in a Regulatory Action or a Civil Action that the CFP® professional engaged in fraud, theft, misrepresentation, or other dishonest conduct;

c. A personal bankruptcy or business bankruptcy filing or adjudication where the CFP® professional was a Control Person of the business, unless the CFP® professional can rebut the presumption that the bankruptcy demonstrates an inability to manage the CFP® professional's or the business's financial affairs responsibly;

d. The assessment of a federal tax lien on property owned by the CFP® professional, unless the CFP® professional can rebut the presumption that the federal tax lien demonstrates an inability to manage the CFP® professional's financial affairs responsibly; or

e. A non-federal tax lien, judgment lien, or civil judgment that has not been satisfied within a reasonable amount of time.

3. Reporting. A CFP® professional must provide written notice to CFP Board within 30 calendar days after the CFP® professional, or an entity over which the CFP® professional was a Control Person, has:

a. Been charged with, convicted of, or admitted into a program that defers or withholds the entry of a judgment or conviction for, a Felony or Relevant Misdemeanor;

b. Been named as a subject of, or whose conduct is mentioned adversely in, a Regulatory Investigation or Regulatory Action alleging failure to comply with the laws, rules, or regulations governing professional activities;

c. Had conduct mentioned adversely in a Finding in a Regulatory Action involving failure to comply with the laws, rules, or regulations governing professional activities;

d. Had conduct mentioned adversely in a Civil Action alleging failure to comply with the laws, rules, or regulations governing professional activities;

You have to self-report, within 30 days, any malfeasance or investigation into potential malfeasances, or legal actions or even if you've been fired and it was alleged that you were dishonest. Call that the CFP Board's version of the U5.

e. Become aware of an adverse arbitration award or civil judgment, or a settlement agreement, in a Civil Action in which the conduct is mentioned, and that alleges failure to comply with the laws, rules, or regulations governing professional activities;

f. Been the subject of a Finding of fraud, theft, misrepresentation, or other dishonest conduct in a Regulatory Action or Civil Action involving conduct in a non-professional capacity;

g. Had a professional license, certification, or membership suspended, revoked, or materially restricted because of a violation of rules or standards of conduct;

h. Been terminated for cause from employment or permitted to resign in lieu of termination when the cause of the termination or resignation involved allegations relating to compliance, honesty, or ethical considerations;

i. Been named as the subject of, or been identified as the broker/adviser of record in, any written, customer-initiated complaint that alleged the CFP® professional was involved in:

i. Forgery, theft, misappropriation, or conversion of Financial Assets;

ii. Sales practice violations and contained a claim for compensation of $5,000 or more; or

iii. Sales practice violations and settled for an amount of $15,000 or more.

j. Filed for or been the subject of a personal bankruptcy or business bankruptcy where the CFP® professional was a Control Person;

k. Received notice of a federal tax lien on property owned by the CFP® professional; or

l. Failed to satisfy a non-federal tax lien, judgment lien, or civil judgment within one year of its date of entry, unless payment arrangements have been agreed upon by all parties.

4. Provide Narrative Statement. The written notice must include a narrative statement that accurately and completely describes the Material facts and the outcome or status of the reportable matter.

You must cooperate with the CFP Board when it investigates you. This provision is a pretty strong one.

5. Cooperation. A CFP® professional may not make false or misleading representations to CFP Board or obstruct CFP Board in the performance of its duties. A CFP® professional must cooperate fully with CFP Board's requests, investigations, and disciplinary proceedings. Cooperation includes providing to CFP Board all requested information and documents that are in the CFP® professional's possession, custody or control. A CFP® professional must use best efforts to obtain requested documents, not already provided to CFP Board, from those entities or persons whom the CFP® professional controls, including the CFP® professional's attorney. If the requested information and documents are not provided, the CFP® professional must explain the efforts undertaken to obtain them, and why those efforts were unsuccessful.

6. Compliance with Terms and Conditions of Certification and License. A CFP® professional must comply with the Terms and Conditions of Certification and License.

Glossary

CFP® Professional's Firm: Any entity on behalf of which a CFP® professional provides Professional Services to a Client.

Here are the definitions of key terms. The "conflict of interest" definition is interesting.

Client: Any person, including a natural person, business organization, or legal entity, to whom the CFP® professional renders Professional Services pursuant to an Engagement.

Conflict of Interest: (a) When a CFP® professional's interests (including the interests of the CFP® Professional's Firm) are adverse to the CFP® professional's duties to a Client, or (b) When a CFP® professional has duties to one Client that may be adverse to another Client.

Control Person. A person who has the power, directly or indirectly, to direct the management or policies of the entity at the relevant time, through ownership, by contract, or otherwise.

Engagement: A written or oral agreement, arrangement, or understanding.

I quoted from this toward the front of the document, and it is clear that it the Commission put a lot of work into defining financial advice comprehensively, so that somebody could not later claim that the Code of Ethics didn't apply to their manipulation of a client's portfolio.

Still... Isn't it curious that the terms "investment advice" or "portfolio management" never appear anywhere in the document?

Financial Advice:

A. A communication that, based on its content, context, and presentation, would reasonably be viewed as a suggestion that the Client take or refrain from taking a particular course of action with respect to:

1. The development or implementation of a financial plan addressing goals, budgeting, risk, health considerations, educational needs, financial security, wealth, taxes, retirement, philanthropy, estate, legacy, or other relevant elements of a Client's personal or financial circumstances;

2. The value of or the advisability of investing in, purchasing, holding, or selling Financial Assets;

3. Investment policies or strategies, portfolio composition, the management of Financial Assets, or other financial matters;

4. The selection and retention of other persons to provide financial or Professional Services to the Client; or

B. The exercise of discretionary authority over the Financial Assets of a Client.

The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry. The more individually tailored the communication is to the Client, the more likely the communication will be viewed as Financial Advice. The provision of services or the furnishing or making available of marketing materials, general financial education materials, or general financial communications that a reasonable person would not view as Financial Advice, does not constitute Financial Advice.

Financial Assets: Securities, insurance products, real estate, bank instruments, commodities contracts, derivative contracts, collectibles, or other financial products.

I love the definition.

Financial Planning: A collaborative process that helps maximize a Client's potential for meeting life goals through Financial Advice that integrates relevant elements of the Client's personal and financial circumstances.

Material: Information is material when a reasonable Client or prospective Client would consider the information important in making a decision.

Professional Services: Financial Advice and related services that are provided or held out as being provided, including, but not limited to Financial Planning, legal, accounting, or business planning services.

Related Party: A person or business entity (including a trust) whose receipt of Sales-Related Compensation a reasonable CFP® professional would view as benefiting the CFP® professional or the CFP® Professional's Firm, including, for example, as a result of the CFP® professional's ownership stake in the business entity. There is a rebuttable presumption that a Related Party includes:

A. Family Members. A member of the CFP® professional's family and any business entity that the family or members of the family control; and

B. Business Entities. A business entity that the CFP® professional or the CFP® Professional's Firm controls, or that is controlled by or is under common control with, the CFP® Professional's Firm. Control is the power, directly or indirectly, to direct the management or policies of a business entity, whether through ownership of securities, by contract or otherwise.

Scope of Engagement: The Professional Services to be provided pursuant to an Engagement.

So ends the tour; I hope you enjoyed it. As I read through it again, I realized that many provisions (disclosure of compensation, for instance) were hugely controversial in the early years of practice standards, but are taken for granted now. This is an encouraging sign that the profession is evolving.

In a conversation with Kevin Keller as the document was being unveiled, he pointed out to me that CFP standards tend to have a wider impact than merely on the CFP community, since it makes little sense for companies (think: insurance companies, independent BDs and wirehouses) to have a different standard for their CFP-credentialed advisors as others. Thus, there's a possibility that this document, if adopted, will have an even wider impact than the DOL Rule, and the beauty of it is that we don't have to go through the legislative process or the regulatory-captured SEC in order to get the standards approved.

The financial planning world appears to be moving a long step toward true professionalism.

I expect outraged comment letters and weasily-worded suggestions from the attorneys representing the commission universe. So I would urge you, if and when you send in your own comments, to add a word or two of praise for the boldness with which the CFP Board has embraced a fiduciary standard on behalf of the CFP community, and the consumers they serve. ■

Management Power Tools

Synopsis: ***Here's a first look at Pershing Advisor Solutions' new Assessment and Metrics evaluators, and how they can turn novice managers into pros.***

Takeaways: ***You can track and start interpreting (with a relationship consultant) your clients per staff, your growth, your metrics compared with beginning-of-year projections and also with your peers.***

One of this newsletter's most popular articles, roughly a decade old now, contained one shocking confession after another from senior, well-known advisors, telling us that, despite their world-class planning knowledge and expertise, they really didn't know how to run a business.

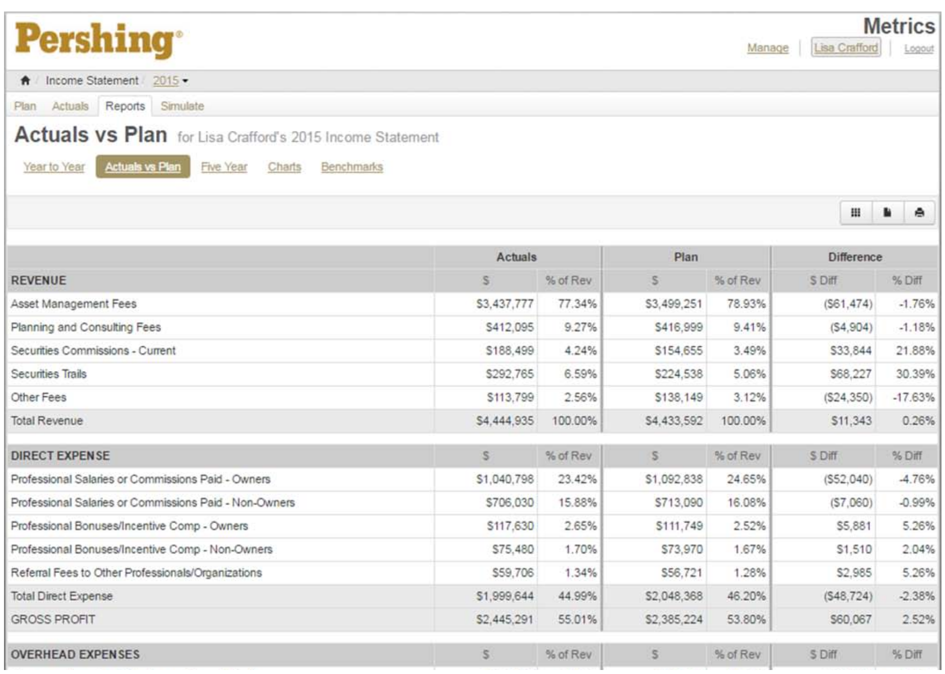
And—this is what made the article popular—they confessed that they were ashamed of their lack of business knowledge, and were actively hiding it from their co-workers, their clients, and their spouses.

Why were they ashamed? There is no logical reason. There is no real connection between planning skills and business management acumen, any more than there is a connection between having a legal, medical or world history degree and understanding the nuances of creating a healthy, vibrant business. Yet somehow these advisors—and, it turns out, many of our readers at the time—were hiding this lack of expertise when they should have been seeking help.

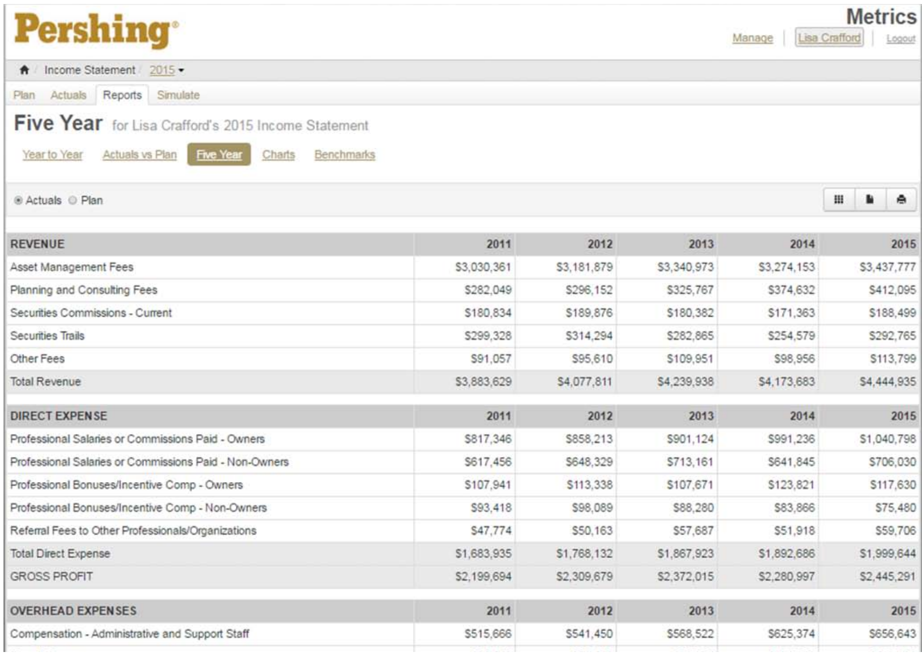
Today, help is on the way. In fact, I suspect that the newest tools are going to dramatically impact the health of the planning profession in a positive way over the next few years. How would you like to have, at your fingertips, a way to compare your revenues per employee with a cohort of independent RIA firms that are your size (based on revenues)? How would you like to compare your growth rate, or a long list of your line item costs? Or track your revenue growth and expenditures compared with the projections you made at the start of each year?

For the past six months, Pershing Advisor Solutions has been quietly testing an Assessments and Metrics tool with a select group of their affiliated advisory firms, which was introduced to the planning profession at the company's national Insite Conference last month (June 14-16) in San Diego.

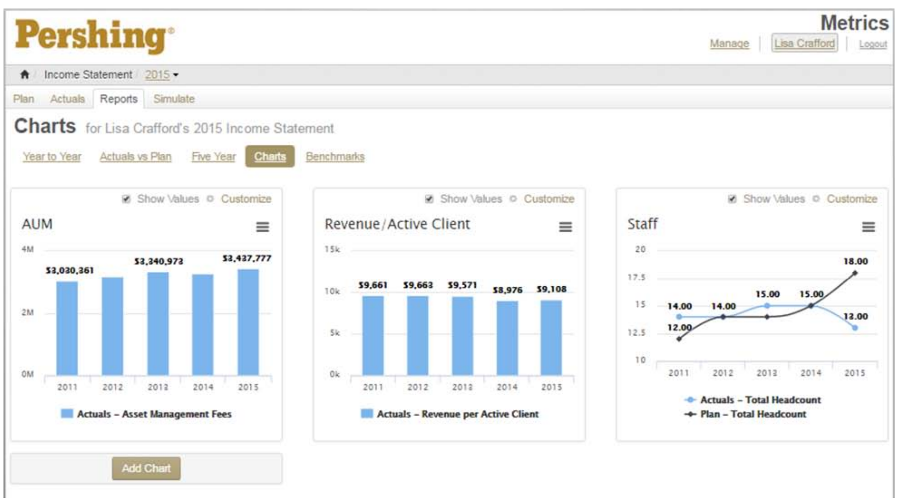
How does it work? Somebody in your firm starts in the Assessments area. Pershing co-developed the assessment with ActiFi, Inc., focusing a variety of multiple-choice questions on the key issues facing any financial planning/advisory firm: your strategic planning, your marketing plan, your referral culture, client-level profitability, overall growth and your unique value proposition (assuming you have one). The



	Actuals		Plan		Difference	
REVENUE	$	% of Rev	$	% of Rev	$ Diff	% Diff
Asset Management Fees	$3,437,777	77.34%	$3,499,251	78.93%	($61,474)	-1.76%
Planning and Consulting Fees	$412,095	9.27%	$416,999	9.41%	($4,904)	-1.18%
Securities Commissions - Current	$188,499	4.24%	$154,655	3.49%	$33,844	21.88%
Securities Trails	$292,765	6.59%	$224,538	5.06%	$68,227	30.39%
Other Fees	$113,799	2.56%	$138,149	3.12%	($24,350)	-17.63%
Total Revenue	$4,444,935	100.00%	$4,433,592	100.00%	$11,343	0.26%
DIRECT EXPENSE	$	% of Rev	$	% of Rev	$ Diff	% Diff
Professional Salaries or Commissions Paid - Owners	$1,040,798	23.42%	$1,092,838	24.65%	($52,040)	-4.76%
Professional Salaries or Commissions Paid - Non-Owners	$706,030	15.88%	$713,090	16.08%	($7,060)	-0.99%
Professional Bonuses/Incentive Comp - Owners	$117,630	2.65%	$111,749	2.52%	$5,881	5.26%
Professional Bonuses/Incentive Comp - Non-Owners	$75,480	1.70%	$73,970	1.67%	$1,510	2.04%
Referral Fees to Other Professionals/Organizations	$59,706	1.34%	$56,721	1.28%	$2,985	5.26%
Total Direct Expense	$1,999,644	44.99%	$2,048,368	46.20%	($48,724)	-2.38%
GROSS PROFIT	$2,445,291	55.01%	$2,385,224	53.80%	$60,067	2.52%
OVERHEAD EXPENSES	$	% of Rev	$	% of Rev	$ Diff	% Diff


Pershing
Metrics
Manage | Lisa Crafford | Logout
Income Statement / 2015
Plan Actuals Reports Simulate
Five Year for Lisa Crafford's 2015 Income Statement
Year to Year Actuals vs Plan Five Year Charts Benchmarks
Actuals Plan

REVENUE	2011	2012	2013	2014	2015
Asset Management Fees	$3,030,361	$3,181,879	$3,340,973	$3,274,153	$3,437,777
Planning and Consulting Fees	$282,049	$296,152	$325,767	$374,632	$412,095
Securities Commissions - Current	$180,834	$189,876	$180,382	$171,363	$188,499
Securities Trails	$299,328	$314,294	$282,865	$254,579	$292,765
Other Fees	$91,057	$95,610	$109,951	$98,956	$113,799
Total Revenue	$3,883,629	$4,077,811	$4,239,938	$4,173,683	$4,444,935
DIRECT EXPENSE	**2011**	**2012**	**2013**	**2014**	**2015**
Professional Salaries or Commissions Paid - Owners	$817,346	$858,213	$901,124	$991,236	$1,040,798
Professional Salaries or Commissions Paid - Non-Owners	$617,456	$648,329	$713,161	$641,845	$706,030
Professional Bonuses/Incentive Comp - Owners	$107,941	$113,338	$107,671	$123,821	$117,630
Professional Bonuses/Incentive Comp - Non-Owners	$93,418	$98,089	$88,280	$83,866	$75,480
Referral Fees to Other Professionals/Organizations	$47,774	$50,163	$57,687	$51,918	$59,706
Total Direct Expense	$1,683,935	$1,768,132	$1,867,923	$1,892,686	$1,999,644
GROSS PROFIT	$2,199,694	$2,309,679	$2,372,015	$2,280,997	$2,445,291
OVERHEAD EXPENSES	**2011**	**2012**	**2013**	**2014**	**2015**
Compensation - Administrative and Support Staff	$515,666	$541,450	$568,522	$625,374	$656,643



questionnaire actually does double duty by collecting data and also working as a teaching tool; a PDF report gives background on why the questions are relevant to a planning firm, and then offers some generic advice.

"It might say: *Your value proposition is good, but you're not using it effectively in your marketing efforts*," says Lisa Crafford, VP of Relationship Management at Pershing Advisor Solutions. "But," she's quick to add, "this is not a self study. This information is collected as a way to give the relationship manager a deeper insight into the firm, so we can be more effective in our consulting role."

Gabriel Garcia, who heads up relationship management at Pershing Advisor Solutions, emphasizes that in this part of the tool, there is no ranking or scoring. "We wanted to create a debriefing tool for the management team and executives," he says, "so they can create a development plan and focus on what areas we can engage with them over the coming year, to make their business stronger."

Then you move to the Metrics section. Some of you will find the input screen familiar: it asks for company information in the same way that you would to complete the Investment News Financial Performance Study: the fees and income from various sources (asset management, planning and consulting retainers, securities commissions etc.); direct expenses (cost of professionals broken down by type of position); a variety of overhead expenses; plus total assets under management; active clients; and the total number of professionals and support staff.

You actually do this twice for each year: first you input the budget and anticipated revenues that you forecast for each year (ideally going back at least five years), and the actual numbers that were produced during that year on the revenue and expense side.

The system automatically calculates, on a dashboard, the percent of revenue that comes from each source, the percent of revenue taken up by each of your direct and overhead expenses, and the changes over time. It shows your

5-year trends for every metric. And you can generate any or all of 20 different charts based on these numbers and ratios, which are designed to help you spot trends. (see graphics) What is your client per advisor ratio this year and how has it changed? If it has been climbing each year, does that mean it's time to preemptively hire one or more new advisors, who can be trained before the ratio creates work overloads? Is the firm growing its assets but profitability is declining, suggesting that the growth pattern is not sustainable?

"Sometimes we'll talk with a firm that wants to double its assets under management in five years," says Garcia. "We can go back into the numbers, which are right there on the screen, and say, *well, here's the delta between you doubling and your current trend line. How would you like to close that gap?*"

But… Didn't we just agree that the advisors still don't have the business management expertise to interpret the meaning of these ratios. This is where the relationship managers come in. "We may see, based on our training and having worked with other firms, that the productivity metrics are not as high as they should be," says Crafford, pointing to the clients per advisors or clients per staff graphic. "That can open up a conversation about whether or not they're using workflows, whether they're hiring the right people, whether they're leveraging technology effectively."

She adds that in many cases, firms haven't determined whether they're turning a profit on a large segment of their client base. "We talk about what makes a good client for your firm," Crafford adds. "And of course, that's a different conversation with each firm, because everybody is different."

The projected revenues and expenses vs. actual data can lead to some interesting insights as well. "You can see whether they're growing the way they expected," says Crafford. "But you can also look at the dollar numbers, and that helps to show the significance that even seemingly minor deviations can have."

In one example, a firm's overhead costs were "only" 2% higher than projected. Only 2% is good, right? "*I said to them, 2% is $170,000*," says Crafford. "*What could you have done with that extra $170,000?* And then all of a sudden that 2% overspend leads to a real conversation about what decisions they're making today, and how those decisions are going to affect the firm going forward."

Advisory firms can also use the Metrics tool to compare themselves with firms like them. The database taps into the Investment News Financial Performance Study information, allowing your firm to specify a firm size (measured by revenues) and type (RIA, dually-registered, wealth manager etc.) and compare your growth to the typical firm that fits your general profile. You can compare the percentage of revenue you're spending on direct or overhead expenses, or any individual expense, or your calculated metrics like clients per staff member.

"Once again, this is not a scorecard," says Crafford. "It's more of a process of seeing how other firms are doing, and then asking: Why am I doing X this way, and is it serving me well?"

If the Pershing consultant sees that the productivity metrics are not high, it opens up a conversation about workflows, hiring the right people or leveraging technology.

Garcia says that the tool is built to help advisory firms answer the most fundamental business management questions: *Where do I want to go? Am I on track? What do I need to do to get there? What are the potential trade-offs?*

"They're busy doing their day-to-day work, serving their clients, leading their firms, with limited time to step back," Garcia says. "We provide access to resources that didn't exist when they started the firm, which helps us work together to put a plan in place that will move them down the field. For us to be that coach and consultant is core to what our responsibilities are," he adds. "Providing great service to clients is really important to them. Helping them build the firm they want is really important to us."■

Life Management Portals

Synopsis: ***The traditional client portal--for performance statements--is morphing into something much more useful and comprehensive.***

Takeaways: ***Clients can securely, conveniently access wills and trusts, mortgage data, life insurance policies--and social media passwords, recipes and funeral arrangements.***

By now, everybody knows that eMoney combines financial planning tools with a client vault, and the vault feature has become increasingly popular with gen X and millennial clients, the way boomer clients embraced those binders that contained all their financial information. Being able to put your personal and financial information in one convenient place could become a key feature of the financial planning "offer"—or at least a differentiator.

eMoney has proven that the traditional client portal—which provides online access to performance information and portfolio holdings, has the potential to evolve into something bigger and more comprehensive—something that Richard Adair, co-founder of a company called FutureVault, describes as "life management portals."

What you may not know, however, is that eMoney isn't the only game in this particular town. A handful of competitors—including FutureVault and the better-known Everplans—have emerged to provide alternative comprehensive portals for you and your clients.

Let's see how they work and the pricing involved.

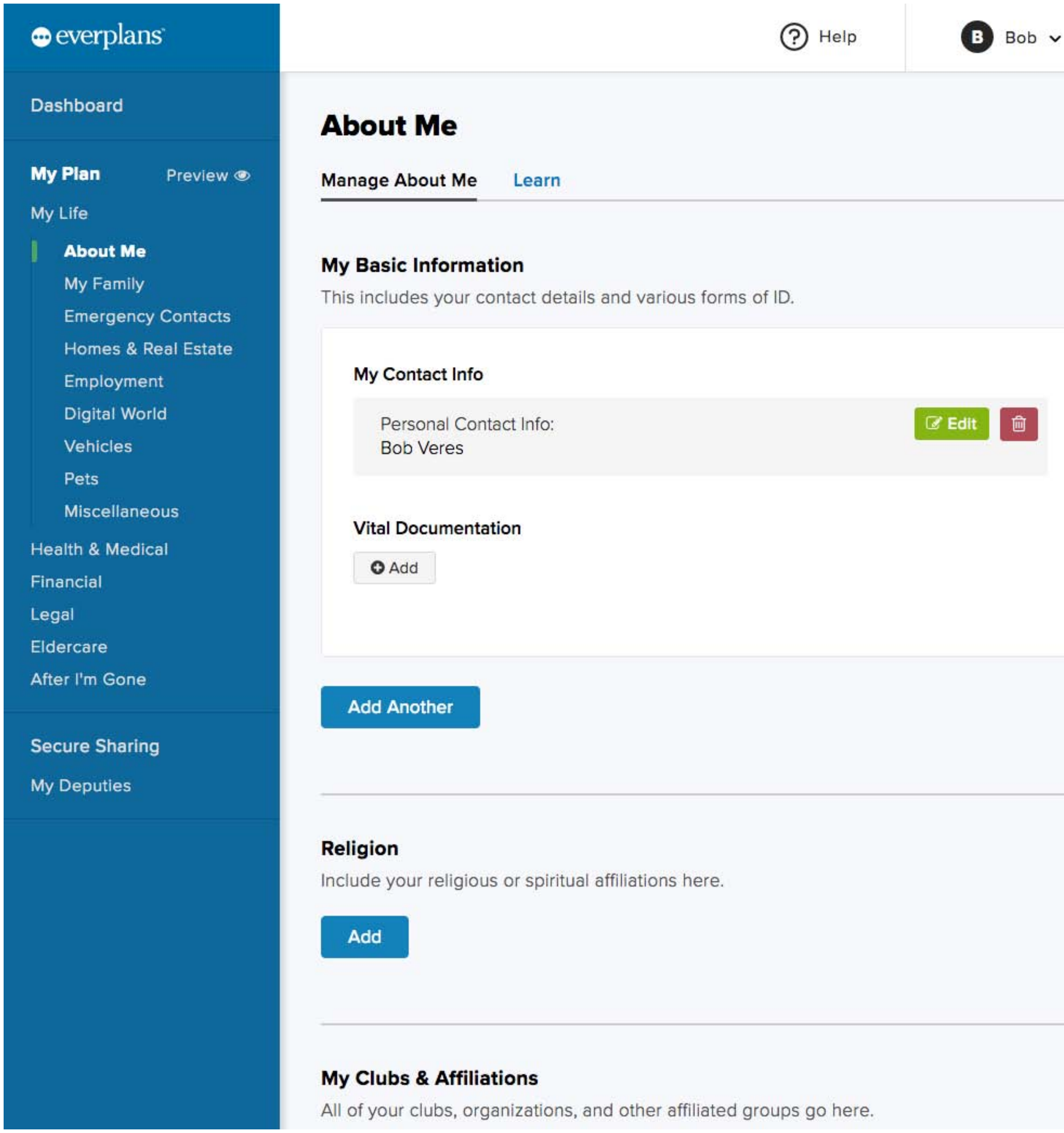
Everplans

Everplans (*https://www.everplans.com*) started life as an information resource for people who were facing end-of-life issues, a trove of what are now thousands of articles covering everything from advance directive forms recognized in each U.S. state, to a comprehensive estate planning checklist to pre-planning a funeral, to how to ensure your pets are cared for if something where to happen to their loving owners. Company co-founder (with Adam Seifer) Abby Schneiderman realized, in the flurry of writing about all the contingencies at the end of life, that people needed something more. When her brother died in a car accident—she discov ered that she was one of the world's living experts on how to handle the details, except that she couldn't find a lot of the relevant information that was needed to handle his affairs. Everplans' morphed from providing information and advice (which it still does, copiously) to collecting and storing personal and financial information in a convenient online format The emphasis is still on end-of-life planning, but (as you'll see) a lot of the information is just as well-suited to organizing a person's financial life.

> ***Everplans' co-founder realized that she didn't have the information she needed to manage the affairs of her deceased brother.***

Log onto the portal with your user name and password, and Everrplans automatically suggests what to add first, then next, and so forth, beginning with the names and contact information of people you would want to be contacted in an emergency; your financial assets and your employment. As you go at your own pace, you input information about your family, your home and other real estate ownership, vehicles, all your digital resources including passwords, medical information, your will and trusts, funeral preferences and letters to your family members after you're gone. You can upload an unlimited number of documents.

As the client fills in the various bits and pieces of their personal and financial life, at the bottom of the screen, they are constantly educated via three types



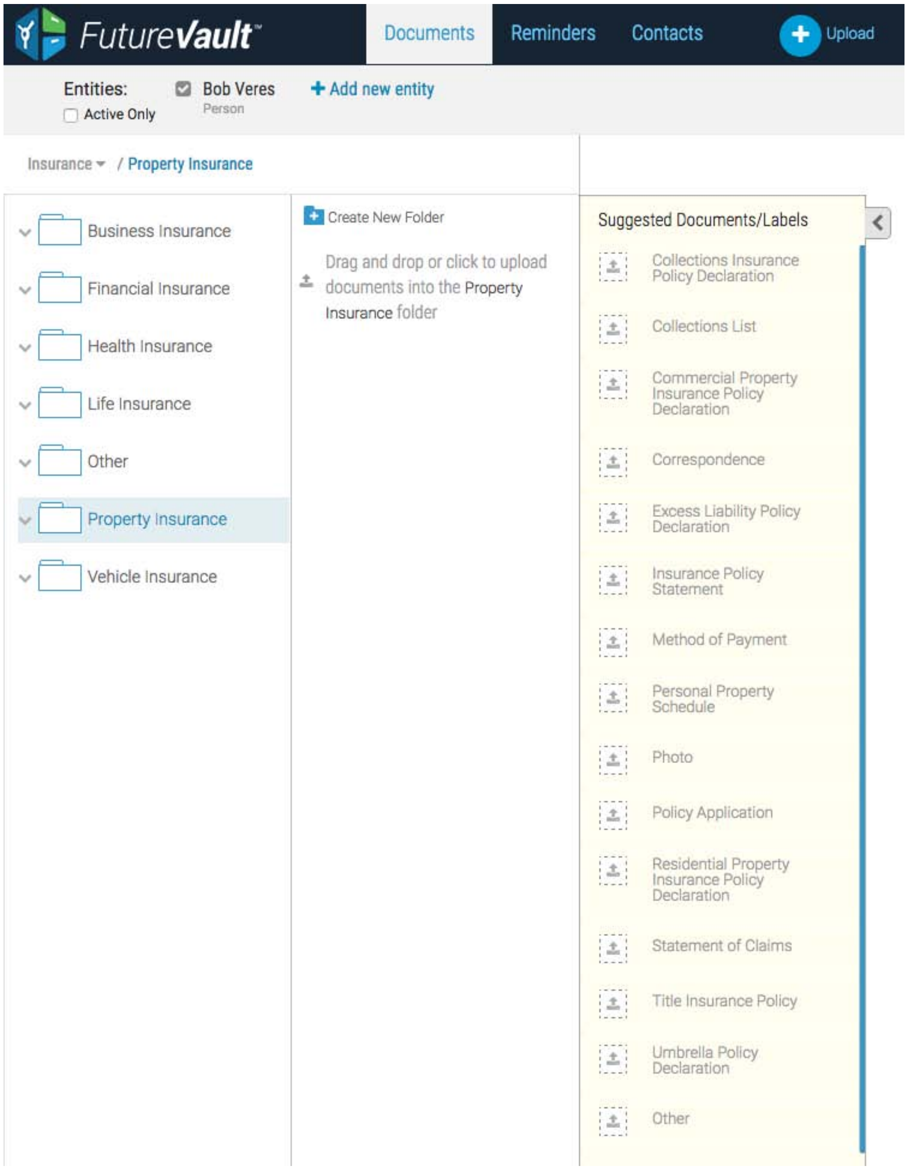
of guidance materials: a checklist, a guide and an article, all color-coded. Meanwhile, clients can decide which family members and/or professionals they want to share each item of information with—they're called "deputies" in company nomenclature. The attorney might be able to log in and gain access to the power of attorney, will and trust information, for instance, while a close family member might be given access to everything. The program comes with state-of-the-art encryption and escrow funding to ensure that the data will continue to be available should something dramatic happen to the company or the economy.

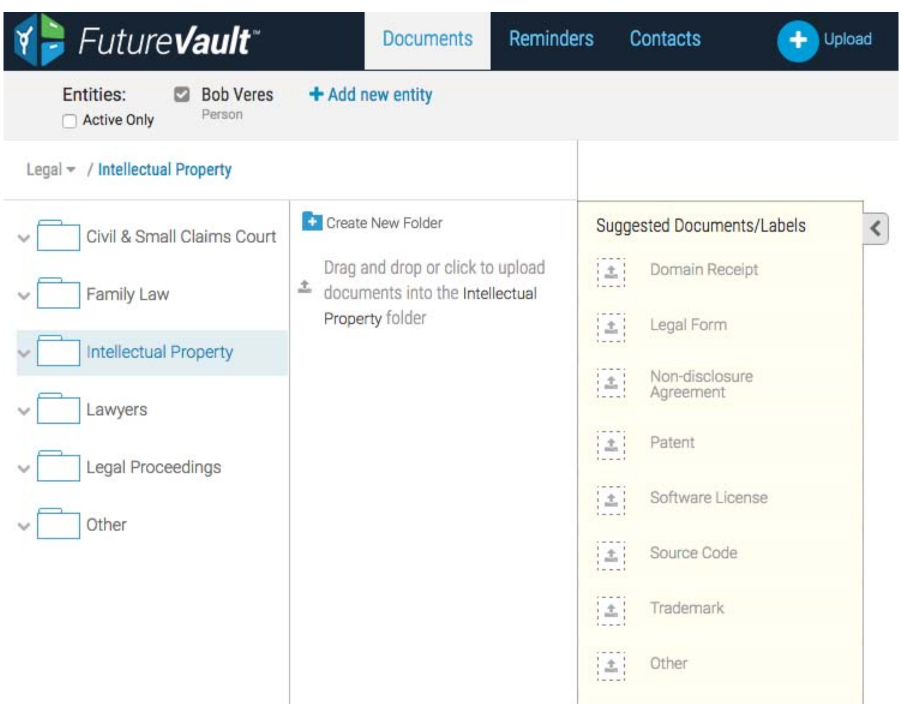
Access to Everplans is available for $75 a year, but advisors can buy a site license for $292/month and invite all their clients to use the service at no additional cost. The price comes with a dashboard that lets advisors see who's adding information to the site in real time, who has completed which portions etc. But it won't show actual client information unless the client has designed the advisor as a "deputy" for that data.

"This goes well beyond having just a vault," says Chris Cosenza, with LPL Financial in Atlanta. "It's geared toward facilitating the information that you want when something happens. And it helps facilitate those additional conversations that most clients would typically avoid. That makes it an easy way to get that information."

Randy Dippell, of Nestegg Advisory in Chicago, likes the fact that the company now allows advisors to input client information into vaults on behalf of the client. And he finds that HE has an easier time organizing client data using Everplans. "If a client buys a new car, I say, where is the title?" he says. "They say: it's in the safe deposit box. I say, okay, let me get a copy and I'll enter it into Everplans. There's value in knowing where everything is. A lot of time if something happens to you, nobody knows that your safe deposit box key is in the bottom drawer of the desk in the den underneath the notebook."

To date, Dippell has 60 clients signed onto Everplans. "The feedback I've received is: *wow! This is great!"* he says. *"Then they'll say something like:*





I definitely want my kids to know why I joined the army. Or: *I like having a place where I can store my photographs and family recipes*."

The end-of-life angle gives new meaning to some of the data that clients are prodded to enter—like, for example, the social media passwords. "People don't realize that they don't own their own Facebook and Twitter and LinkedIn accounts; they do," says Dippell. "Only you can close down an account, which is obviously problematic when you die" he adds. "But if you have all your user name and password information in Everplans, the heirs can go in and shut down those accounts."

Bigger picture, Dippell says that Everplans sets a tone in the client relationship. "The branding message I'm trying to convey to my clients is: *let's use your wealth to invest in yourself*. I think Everplans helps deliver that message for me and my firm."

FutureVault

The most comprehensive life management portal, currently, is something called FutureVault (*http://www.futurevault.com/*), which was originally created to help a high-net-worth Canadian citizen named Scott Patterson manage his tech deals—including Research in Motion. "It was really hard for him to keep track of all his financial information," says Adair, FutureVault's co-founder and vice-chairman. "Scott had filing cabinets full of subscription agreements from these investment companies, and emails with attachments, files saved on different computers at the office and at home." Out of frustration, he hired Adair, who had been working on cloud-based technology in ultra-secure environments for the insurance industry prior to a stint as the head IT architect for TD Waterhouse, and instructed him to assemble a team that would build a cloud-based digital filing cabinet that would organize peoples' important files and documents.

Today, when you log into FutureVault, you are presented with 25 folders—each covering its own category. There are 170 subcategories within that structure, which leads to 1,300 different documents that the system might recommend that you upload and file if appropriate. Do you own vacation property? The system would suggest that you file an online copy of your mortgage deed. Your will goes in the legal folder, and it might also go in your estate planning folder. Your tax returns are uploaded to the tax folder. The "investments" folder includes your assets under management, plus your investment properties, jewelry, collectibles, art and wine.

FutureVault has advanced OCR capabilities that let you search for different scanned documents just by typing in key words or parts of the text that you know is included in the document. Like Everplans, the client can permission different members of the advisory team to see different files—or not.

There are three keys to FutureVault's value proposition. The first is very strong encryption, so strong that if somebody managed to hack into the system—which Adair says is very unlikely, given the team's experience protecting insurance and banking data in this era of cybersecurity paranoia—then the hacker would have to then decrypt, one by one, every single document for every single client. "Given how tightly we monitor the system, we think we'd spot them long before they could drill down to any sensitive information," says Adair.

Nobody has definitively thought through the taxonomy of the online life management portal. FutureVault is attempting to define the gold standard.

The organization is the second key.

"Nobody has definitively thought through the taxonomy of the online life management portal," says Adair. "We spent a lot of time researching how people are using the system, and what would be most convenient. We are," he adds, "taking a shot at becoming the gold standard for this type of service."

The third key is ease of use, something that all of the cloud-based systems have had to give a lot of attention to, since filing and filling in data is at best a cumbersome chore. FutureVault comes with a basic upload button which takes documents straight from the client's (or advisor's) computer desktop. Each client vault comes with its own email address, so email attachments can be sent straight to FutureVault, and the selected attachments are automatically uploaded.

After the upload, the OCR capabilities will scan the document, looking for key words, and then recommend where the document should be filed. It will look for the names of the children, the family doctor, the fact that the document is an invoice—and match the words in the document to a database of key words associated with the different folders and subfolders. A medical report with a child's name on it would trigger a recommendation to file under that child's medical subfolder, and also in a medical folder.

In addition, each document can be annotated with the electronic version of sticky notes, allowing clients to leave a note for themselves or someone else they've permissioned into that folder.

The client can also create alerts and reminders: to make an appointment to meet with your tax preparer on March 15, for example, or pay your term life premium on a certain day each quarter or year. When is the mortgage due to be paid off? When will stock options expire? The advisor can also set alerts, which turns FutureVault into a collaboration tool, making sure advisor and client complete the tasks assigned to them in service of the overall financial plan.

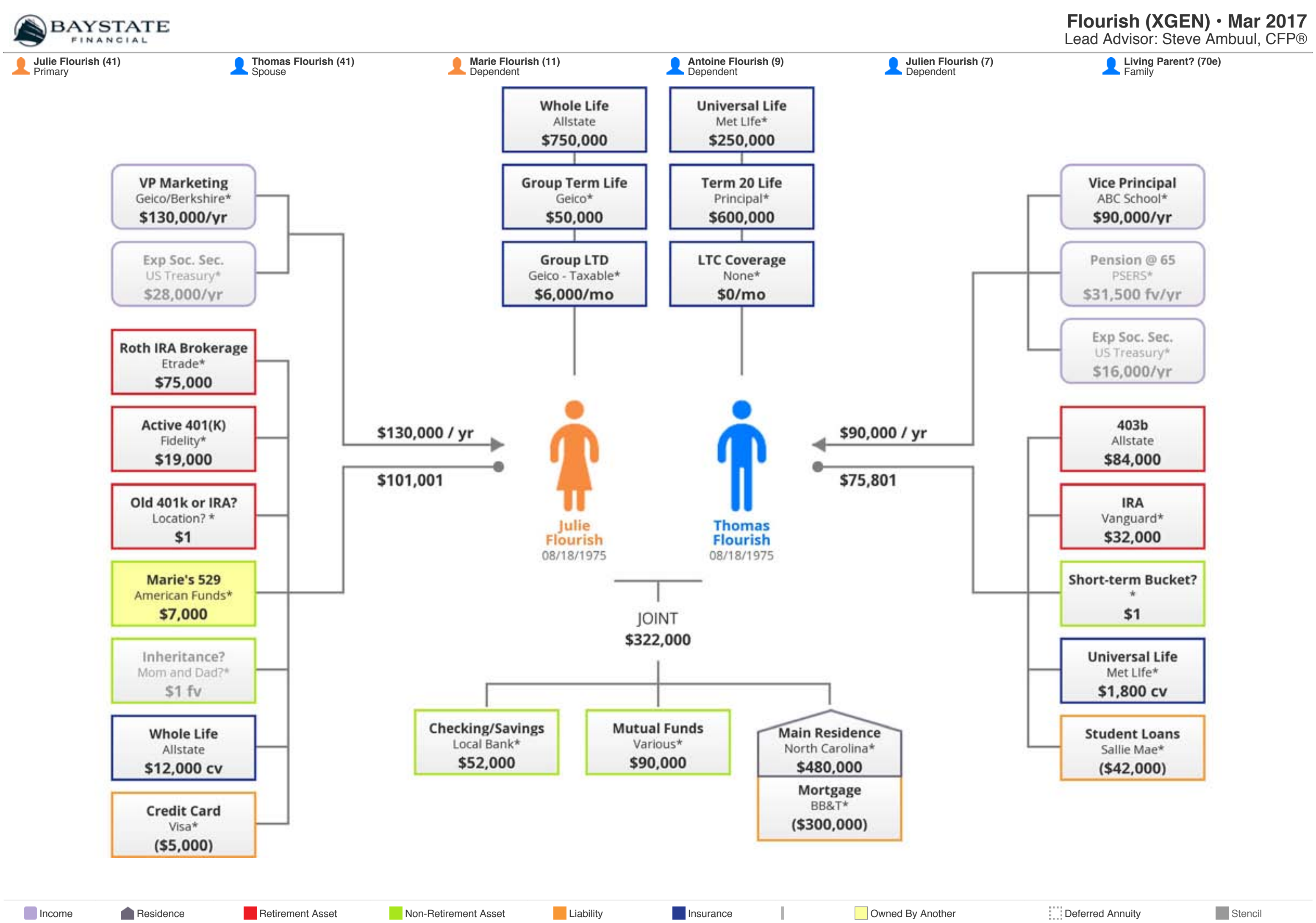
All of these features are white-labeled to your firm, which means you can send invitations out to clients, inviting them to get started in FutureVault, and offering to help them populate it with your own client files where appropriate. At any time, you can access a dashboard which lets you see which of your clients have uploaded information, and which folders they're working on. If you have permission, you can see what's been uploaded.

In September, the company will announce its integration with Orion Advisor Services, and an integration with the Junxure Cloud CRM is not far behind. The price is $12 a month per client, with bulk discounts available.

AssetMap

Finally, take a look at AssetMap (*http://www.asset-map.com*). This is NOT a total life management portal, but it has the framework of one, and like eMoney, it was constructed as a tool to facilitate a truly collaborative financial planning process.

The program was created by Adam Holt, a financial planner in Philadelphia who was trained in mind mapping by none other than Tony Robbins. Think of AssetMap as an automated mindmap; that is, you can select one of several configurations (family, or family business, or single client etc.) and the screen is populated with the possible types of accounts and assets that might be relevant, in a tidy mindmap graphic where the client is at the center. One of the squares is a 401(k) plan. The program has notes attached which prompt a conversation designed to address what Holt says are the five (and only five) key questions about that square: *What type of asset is it holding? Who owns it? Where*



is it located [custodian]? What is it worth? And: *What is the tax structure?* (Which is obvious in the case of a 401(k)). "Those five points of data are all I need to know in order to decide if I need to learn more about that asset," says Holt.

Another square is life insurance. In addition to the usual questions like what company the policy is with and the face amount, the notes also prompt the advisor to ask whether the policy is in a trust, and if so, who owns the trust. If the client doesn't have life insurance, this can prompt a discussion about whether there's a need or not. If there isn't, the advisor can take that square out of the picture with a couple of keystrokes. There are squares for savings accounts, checking accounts, and taxable retirement accounts.

Holt says most advisors will guide a discussion around the mindmap, getting to know the entire financial picture, and then start asking deeper questions. *Does the Roth IRA have up-to-date beneficiary designations? You don't have an educational fund for your children. Is there a reason for that? You have a lot of cash in your checking account. Could we put that to better use? There's no long-term care policy. Is that something you intend to prepare for in some other way?*

Meanwhile, at the start, all the items are prepopulated with a single dollar, until the conversation turns up the real face amount or account value. "We found that putting in a $1 placeholder was better psychologically; that clients would be offended if we had $0, but if it was $1 they would recognize the need to correct the error," says Holt.

Then the client sets goals like retirement and college funding, and a relatively simple present value calculator will pull together the various accounts that are potential funding sources, and determine how well-funded those goals are currently. "The output will say something like, if they can save an additional $1,500 a month, inflated at 3% a year, with an expected return of 6% as year, then they'll achieve that goal in 13.5 years," says Holt. "If they're not comfortable assuming 6%, we go back to 5% and take another look."

Before a new client meeting, Holt will send clients a PDF version of their AssetMap, which they can bring in and, frequently, write on during the meeting. In subsequent client meetings, he'll present them with an updated version, and ask them if their goals are still the same, or if they've made any changes (purchased a long-term care policy, for instance). "Every time we do a review, there is something new to fix," says Holt. "The program creates an engagement process where advisors become advocates for the client, identifying areas where they can smooth out their financial life."

Pricing? $129 a month per advisor, with discounts for multiple seats.

As mentioned above, AssetMap doesn't include every aspect of a client's life in the way that FutureVault and EverPlans does, and it doesn't yet allow clients to go online and check out or update their financial picture. But the structure is there for that more comprehensive solution. Meanwhile, AssetMap provides a look at the future interactive client engagement, where advisors sit down with clients and help them organize the things they'll be putting online. It's easy to envision the life management portal becoming the heart of the initial client meeting and the hub of regular client meetings.

Many of you are already using the eMoney vault, and I suspect most of you are using one of the client vaults that provide access to performance statements and account data. In the very near future, most advisors will be competiting to provide the conveniences of aggregated information that is important to them—and as they do, these life management portals are going to continue evolving features and conveniences. This is not a bandwagon you can't wait much longer to get onto. ■

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Parting Thoughts

Conflicts in the "News"

Reading through the CFP Board's proposed new Code of Ethics and Standards of Conduct has caused me to mentally sift through the ethics and standards of my own (journalism) profession. The goal of the new CFP Board proposal is to protect the public and enhance the reputation of CFP professionals. Should there be protections around the information that is delivered by the media?

I've identified a few conflicts that I think we should be aware of.

1) *Direct payments for favorable or biased coverage*. In the mainstream publications, like the Washington Post, CNN, the Wall Street Journal and the New York Times, you have fact-checkers and strict prohibitions against receiving any form of compensation from outside interests who might be interested in influencing your story. But of course those standards are not always observed in the blogosphere, where some of the more extremist voices are underwritten by partisans, and some so-called "fake news factories" like the one uncovered in Macedonia are outright paid to provide a consistently false narrative. (Disclosure: I don't accept money for favorable articles—and I've been offered. But I have accepted occasional dinners, and free entry to industry conferences that I'm covering, including some pretty lavish afterparties.)

2) *Advertising*. Ever wonder why you so seldom see an expose of the corruption on Wall Street? Or why newspapers and magazines were, in the 1950s and 1960s, reluctant to publish articles on the dangers of smoking? If you take in millions of dollars from an industry, your editors become aware of the danger of biting the hand that feeds them. Nobody will admit to this bias, and some publications have so-called "Chinese Walls," but the walls are more to keep the writers from getting their marching orders directly from advertisers. (Note: Inside Information doesn't take advertising dollars. But we DO produce a conference where there are paid exhibitors.)

3) *Personal bias*. Once again, the mainstream publications do what they can to keep biases confined to the opinion and editorial pages, and sometimes I think they bend over too far in the name of "fairness," sometimes treating visibly false rumors or allegations as if they were news, simply because they were aired in the first place. But it seems like the political bloggers believe their value-add is not to inform so much as persuade, and if that's the case, I believe they should disclose their agenda. (Note: I have many biases about sales people masquerading as professionals, about professionalism and about Wall Street. I try to be up-front about them.)

4) *The need for attention*. Online publications get paid for clicks; mainstream publications get paid for the number of readers they can attract. The National Enquirer and the like seem to me to go overboard in their lurid efforts to attract attention, and I see similar tendencies in the blogging universe. But I also see some of this in the mainstream media. If there's a disaster anywhere in the world, it will get 24/7 coverage on CNN, while ignoring an enormous amount of good news around the world. (Note: Inside Information is about as unlurid as possible. Our goal is to provide you with an unfair competitive advantage in the marketplace, and while we regret that this is not more popular or eye-catching to advisors, we don't regret the editorial decisions we make.)

How would my profession best address these conflicts? Ideally, I'd like to see the unwritten (but strictly-enforced) rules at the mainstream publications applied to all bloggers and 'zines, and I honestly think the quality of information has gone down as the number of voices has risen. I'd also like to see journalists credentialed in some way, with training and their own Code of Ethics and Standards of Conduct which, if violated, would somehow impact their ability to get the attention of readers or viewers, who would only read the work of "certified" journalists.

Will this ever happen? Let's just say that I'm not going to hold my breath. ■