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inside information

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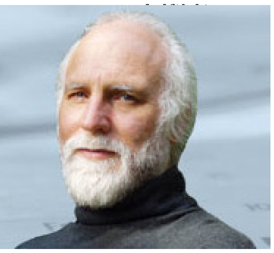

Fee-Only Prosperity

Synopsis: ***The CEO of the U.K.'s equivalent of FINRA says that his country's fee-only advice environment has actually been quite good for business.***

Takeaways: ***People in a commission environment don't recognize the conflicts and consumer issues that arise from conflicts of interest—until they're forced to eliminate them.***

Here's something to think about: What would happen if U.S. regulators moved beyond the current debates about a fiduciary standard, and banned the commission revenue model for advisors—and brokers who pose as advisors—altogether? This is admittedly a hypothetical question at this point, with the incoming Republican Congressional leadership vowing to repeal the DOL rule and most of Dodd-Frank, plus the likelihood of a Republican-appointed SEC chair stepping smoothly into office from the C-Suite of one of America's larger wirehouse firms.

The very idea of banning commissions would have industry lobbyists conjuring visions of an apocalyptic landscape where tens of thousands of brokers would have to scurry out of business, unable to live on the value of their counsel instead of their accustomed role facilitating transactions while being paid commissions to give their customers "free" advice. The lobbyists would tell us that hundreds and perhaps thousands of financial product companies would be extinguished due to their inability to pay for customer investment inflows. And (the old

EARLY WARNING

• Notable conferences coming up this Winter: the AICPA PFP Summit at the Terranea Resort in Rancho Palos Verdes, CA Jan. 23-25 (*http://www.aicpa.org/InterestAreas/PersonalFinancialPlanning/CPEAndEvents/Pages/PFP-Summit-Clips.aspx*), featuring Cheryl Holland, Stephanie Bogan, Michael Kitces plus Bob Veres in a panel discussion on the future of the profession.

TD Ameritrade LINC 2017 in San Diego, CA (*https://wwws.tdameritradeconferences.com/nationallinc/2017/home/*) featuring innovation author Lisa Bodell and ExO works founder Salim Ismail and former U.K. Prime Minister David Cameron on the current geopolitical scene.

The T3 Advisor Conference at the Garden Grove (CA) Hyatt Regency, February 14-17 (*http://www.technologytoolsfortoday.com/advisor-conference.html*), featuring tech labs and the most interesting exhibit hall in the profession (for the technically-inclined).

tired trope that is always trotted out) they would argue that middle-income investors would be left in the cold when it comes to financial advice.

But is it possible that the lobbyists are exaggerating a bit? Might our financial system actually thrive in a commissionless environment?

I recently had a very interesting conversation with Keith Richards about the abolishment of commissions for advisors in the U.K., and the impact it had on the industry and the advisors who recommend investment products. Richards is the CEO of the 37,000-member Personal Finance Society in London, England—which appears to be the United Kingdom's equivalent of our FINRA, with its own code of ethics and standards, assigned by the Crown to govern its members and protect the public. The PFS issues a certificate called a Statement of Professional Standing which empowers individuals in the U.K. to provide financial advice, and requires its members to demonstrate a minimum of 35 hours of continuing professional development (what we call CE credits) a year.

One could hardly describe Richards as a fee-only fanatic. Before his current position, he was a senior executive at one of the U.K.'s larger mutual life companies, overseeing sales of the equivalent of variable life and annuity products; that is, blended insurance and investment vehicles where, it was determined in various inquests post-2008, that consumers were deeply confused about what they were paying in return for the sales recommendations they received.

Richards has also served as Group Distribution and Development Director for Tenet Group, described as an "intermediary group" in the U.K. business landscape, comparable to a large independent broker-dealer in the U.S. At Tenet, he oversaw the commission-driven sales activities of thousands of financial advisors all over the British Isles—a role that most dually-registered U.S. advisors would immediately recognize. "You have to realize that here in the U.K., up until 2012, everyone was effectively remunerated through commission," Richards told me.

In fact, Richards conceded that initially, as the U.K. began exploring the idea of total fee disclosure and a system of fee-compensated advice, he was alarmed. "When you're living in that [commission] environment, firms, industries and insurance companies will naturally resist any reform in the belief that they're doing a great job," he said. "Clients weren't complaining, so what was the problem?"

When advisors were required to enter into fee agreements, it forced them to understand their clients' needs and explain their value.

Now here's the punchline: Richards now believes that both the industry and advisors have benefited from the banishment of commissions. "Transparency, and separating fees from products, has actually worked in favor of the profession and the industry," he says.

You heard that right. Instead of a nuclear winter where only a handful of advisors and a few large index funds remain, the banning of commissions has been accompanied by an uptick of prosperity across the U.K. financial system.

"When advisors were forced into fee agreements with clients, it forced them to first of all understand their clients' needs and to explain the value that they can provide, and the relevance of that," Richards explained. "This led to a very pleasant discovery: when advisors started explaining their fee structures, they found that their established clients were quite satisfied with that. In many cases, the fee values and have increased rather than going down. Many [financial intermediaries] expected to see quite a significant reduction in their revenue streams, but actually the opposite has occurred."

And the industry? "Life products in the U.K. have dramatically changed," said Richards. "Life in the U.K. is now purely protection, like term insurance, with level loads. Most advisors are recommending purely investment solutions and the only thing that a life company might provide is an appropriate tax wrapper."

The solutions include investments many American advisors would recognize: mutual funds, private accounts, stocks and bonds. "Most of them are open architecture," Richards said. "You can simply select from platforms with two thousand or three thousand fund choices."

For a fee.

Commission-driven influences

The legislative initiative that banned commissions in the U.K. is called the Financial Services Act of 2012, which took effect on April 1, 2013. This was the U.K.'s equivalent of America's Dodd-Frank Act in that it mostly sought to stabilize the country's financial system, address some of the risks that larger institutions were taking, and strengthen consumer protections in the wake of horrifying losses and a very public realization that most investors had no idea what they were paying for the financial products they were purchasing.

The Act created the Financial Conduct Authority, an independent regulatory body that prevents unauthorized persons from engaging in regulated activities (including financial advice) and ensures the protection of consumers when receiving advice from professional advisors. Among those protections, outlined in the Retail Distribution Review (which actually went into effect on January 1, 2013) was the requirement that advisors charge fees, and that they adopt what is never quite called a fiduciary standard, but certainly sounds like one: *"to put the well-being of their customers at the heart of how they run their businesses and to promote behaviour, attitudes and motivations about good conduct above anything else."*

"The U.K. is essentially about fee-only advice these days, so advisors are now fee-only," Richards added. "There is no commission allowable for investment advice in the U.K."

When Richards describes the difference between the old environment and the new, he sounds a bit like those fee-only planners you run into from time to time who used to work in a commission-driven environment, and now will tell anyone who will listen that they didn't realize how much those commissions were influencing the advice they provided.

Keith Richards: *"Transparency and separating fees from products has actually worked in favor of the profession and the industry."*

"We, as an industry, were really missing the point about conflicts of interest and how cultural behaviors could be driven by our own interests rather than the needs of our clients," said Richards. "But it becomes evident when you're forced into a different regulatory regime. The big problem was how much our charging structures were very opaque, and therefore consumers didn't really understand how much they were being charged," he continued. "You could argue that the reason people didn't complain is that their costs were not transparent to them, so they couldn't know what they should be challenging.

"That doesn't necessarily mean cheapest is best," Richards added quickly. "What it means is that you need to be very clear about the value that clients are getting for the amount you're charging them. We have seen a complete

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transformation, where fees are totally transparent now, and the risk of bias has been reduced significantly."

Raising standards

Interestingly, Richards is not saying that a country can just ban commissions overnight and everybody benefits. The progression in the U.K. was quite a bit more complex than that. And the actual fee structure that British advisors operate under is not exactly what it is for a fee-only NAPFA planner here in the U.S.

Long before the transition away from commissions, the U.K. regulators did something that is probably long overdue here in the U.S.: they imposed minimum knowledge and continuing education standards on everyone who provided advice. That addressed what would be a powerful objection here in the U.S.: that many brokers and sales agents really aren't equipped to provide (much less live on) real financial planning advice that materially benefits the consumer.

"In 1997, minimum standards and qualifications were introduced in the U.K., which were raised further in 2012," said Richards. "What we've seen is a continuous drive up to higher levels of technical and professional qualifications in the U.K. There is no question that the technical competence has increased significantly over the years, which in itself does lead to different behaviors and a different level of service."

In other words, before advisors were forced to live on the value of their advice, there had been a decades-long effort to make sure everyone who called him/herself an advisor possessed a certain level of training and expertise in the investment markets, insurance, taxes, risk profiling and inflation. "If you didn't qualify in 1997 to the required level, then you had to stop trading," said Richards. "And exactly the same occurred again in 2012."

As a consequence of these higher standards, the attrition that would hit U.S. brokers who are mostly sales-trained actually happened in the U.K. not long after 1997, meaning that by the time the new compensation structure hit those who sold products on the other side of the Atlantic, they were better prepared to gulp and tell their clients that they were going to have to pay for expertise.

Interestingly, the same higher-standards initiative for commission-compensated U.K. advisors caused the nation's product manufacturers and industry to go through their own necessary attrition, consolidation and hardening of their value proposition prior to entering a fee-only world. "At one time, there were somewhere on the order of 250,000 advisors in one form or another in the U.K.," said Richards. "Today we have around 32,500 regulated advisors."

"Having higher-qualified professional advisors who are totally transparent about their fee structures, in itself, forced companies to focus on what consumers really value and need," Richards explained. "Twenty or 30 years ago, the market here was dominated by big life insurance companies that manufactured and distributed their own products, often through big sales forces that worked under their roof.

"What insurance companies offer on the investment side now are investment platforms, sometimes with tax wrappers," Richards continued. "And the distribution has almost entirely moved into the intermediated market"—i.e. independent advisors making their own decisions about the quality of the products and their suitability for clients.

How, exactly, are advisors compensated under the new fee-only regime? If you're hoping that all U.K. advisors would qualify for NAPFA membership, prepare yourself to be a bit disappointed. "The typical fee here is a percentage of the assets being invested or under management," Richards explained. "It could be anywhere from 0.5% to 2.0% for the initial advice, as a front-end charge, for the interview, the fact-finding, coming back with recommendations and a financial planning report. The ongoing fee could be anywhere from 0.25% to 1.0% per annum," he added. "Alternatively, it is not uncommon for firms to offer a fixed fee if they come across a consumer with relatively straightforward needs."

How would that not qualify for NAPFA membership? "The primary model is declared fees that utilize any commissions available in the products," Richards explained. "Any commission surplus would be rebated back to the client's investment account."

In other words, the primary fee-only model in the U.K., at least for the initial planning work, is what we in America would call "fee-offset," with the investment company paying the advisor after the advisor has recommended its investments. After the initial report, the revenue structure appears to resemble our AUM.

My takeaway from this is that there would be no zombie apocalypse if America were to go beyond mere fiduciary requirements to a strictly fee-only compensation model. But I now also think that the U.S. has not done nearly what the U.K. did, decades ago, to prepare the industry for such a shift. It would be reasonable to follow a tiered approach: strengthen the Series 7 to something more closely resembling the CFP or PFS—to at least require everybody who sells insurance and investment products to have the knowledge to benefit clients with their advice. Then eventually, we could start requiring everybody to live by the value of their advice.

Richards assured me that he, as a former skeptic, was made a believer when he saw fee-only in action. "This is a very buoyant market for professional advice," he said. "I can tell you that demand has been increasing year on year for the last three years. Transparency, separating fees from products, has actually worked in favor of the profession now, and the industry."■

Conferences

Emotional Literacy

Synopsis: ***A researcher who studies feelings and emotions offers some guidance on how you can be more personally effective through greater self-awareness.***

Takeaways: ***Recognize that feelings matter, and try to notice them in real time. Go through a day in your mind and see how you feel at different stages. Ask yourself: how am I feeling when I'm my best self?***

What do your feelings and emotions have to do with your work performance? A lot, according to Marc Brackett, director of the Yale Center for Emotional Intelligence. In a presentation at the Schwab IMPACT conference in San Diego, he cited some interesting research. When teachers were put in good moods or bad ones (they were asked to write a brief essay about a great or terrible experience they'd lived through), they gave essay grades two grades higher or lower lower depending on their mood. Doctors, meanwhile, tended to make more extreme diagnoses when they're put in less-positive moods.

A lack of emotional connection can lead to high stress--which is off-the-charts in today's workplaces.

"It is definitively clear that emotions matter to our relationships, the quality of our decisions and judgments, attention, memory, learning and our performance," Brackett told the audience. "You're more creative when you're more aware of and in better control of your emotions. At all times, your brain is filled with thoughts and feelings," he added. "They can either stay separate and not inform each other, or they can work together to help you achieve your goals in life."

A lack of connection can lead to high stress, which Brackett says is off the charts in today's schools and workplace environments.

How do you develop emotional intelligence, where your emotional and cognitive systems are seamlessly working together? Brackett said that it starts with awareness. He asked the audience to describe how they were feeling at that moment, and most people were stumped. This is actually pretty common; most of us, despite having a broad vocabulary that describes feelings (anger, happiness, despair, joy etc.) tend to be emotionally illiterate. When someone asks us how we're feeling, our auto-response tends to be: "fine."

Why? In our culture, how

people feel is rarely acknowledged. In a corporate setting such a thing is not supposed to matter at all.

To get a better awareness of how you feel during the day, Brackett suggested that you imagine you're getting up in the morning. Are you looking forward to the day or dreading it?

You have breakfast. Are you wolfing down a bagel while texting, or are you enjoying a healthy meal in relaxation?

You get to work and encounter co-workers. Are there some you avoid? Do you feel excited at the challenges the day will bring? Or are you dreading a lot of meetings that will interrupt your day? Do you feel stress over your ability to get everything done?

You drive home. Are you exhausted or rejuvenated? Are you dreading another round of emails after dinner?

You go to bed. Are you collapsing? Thinking about the next day? Or are you able to relax?

Now for one more approach. Brackett proposed a two axis grid, where one axis is your "pleasantness" on a scale of 1 (you're in despair) to 5 (euphoric), and the other axis is "activation," ranging from 1 (lethargic) to 5 (energized).

The four quadrants are assigned colors. Yellow means you have high energy and high pleasantness, comparable to the north-west quadrant on the risk-return axis. Red means high energy but you don't feel very pleasant. Green means you feel pleasant but with low energy. Blue means you're feeling unpleasant with low energy (the dreaded south-east quadrant).

Periodically, during the day, stop and feel. What quadrant are you in?

A common nudge toward the blue quadrant is a toxic employee. Brackett said that many people don't consciously realize that they're avoiding certain people in the office—typically individuals who radiate negativity. Due to this emotional blind spot, they never develop a coping mechanism—and the result is chronic stress.

People who display high emotional intelligence are promoted more quickly and are generally more successful.

Turn this around, and there's an argument for trying to keep your own emotional pitch at or near yellow. Every test Brackett has ever devised shows that people naturally want to spend time around co-workers who display high emotional intelligence. They are more effective managers, are promoted more quickly, and become more successful at virtually every endeavor. If you're moving up the corporate ladder, mind your emotions.

Toward the end, of his talk, Brackett recommended a strategy: when you feel yourself slipping into negativity, consider taking a deep breath and, as you become conscious of your feelings, decide whether they're appropriate and helpful.

As an example, Bracket told the story of a time when his flight was cancelled on a trip to Mexico, and he was understandably irritated and depressed as he sat in the airport. Then he stopped and recognized the emotions, and realized that indulging them was not going to make a new plane magically appear on the runway. He realized that he would eventually get to his destination, and called to ask the conference coordinators if they might be able to reschedule him to give his presentation later the following day.

Either they would be able to, or not. Either way it wasn't the end of the world.

As a broad final strategy, Brackett suggested that you consider: *When you're your best possible self, as an employee at your company, as a parent, as a partner, what are the adjectives that you would use to describe yourself?*

How do you want to see yourself in the world? How do you want to be perceived by others?

What are the words that you would like people to use to describe you in terms of how you interact.

"What we've learned over years of research," Brackett told the audience, "is that most people want to be more compassionate. But many people feel like compassion is being pulled out of them, because they're running and running," he added. "Our research shows is that when you activate images of your compassionate self, your empathetic self, your kind self, your caring self, you tend to use better strategies." ■

Practice Management

Operations Insights

Synopsis: ***What are the best practices for identifying and grooming future leaders of your operations team?***

Takeaways: ***Identify important projects and see who steps up to manage their achievement. Empower them to demand the information they need to facilitate client paperwork. Look for people who can connect with the goals of the firm.***

Every year, the Insider's Forum conference shines a light into the darkest, murkiest area of the profession's business management: how to build and manage your all-important operations department. The conference devotes a full track to ops efficiency and ops management, providing training and insight for ops professionals. There's not nearly enough space in this publication to give you all the information that was passed along in the 2016 meeting in San Diego this September, but here are some of the highlights.

Mergers - and ops integration

A panel discussion featured Aspiriant Managing Director of Investment Operations Young Kim and Nathan Mersereau, CEO of Planning Alternatives, who talked about best practices for integrating the operations teams of two merging advisory firms. Panel moderator Vic Esclamado, Managing Director of M&A facilitator DeVoe & Co. in San Francisco, pointed out that this topic will become increasingly relevant in the future. When statistics were last compiled, in 2011, 21% of RIAs were over age 60 and 54% were older than 50. Merging and gaining scale may be the best way for advisors to create a succession option, and advisors with no succession options represent acquisition opportunities for larger firms.

Team members from both firms will meet to identify any organizational roadblocks.

In the conversation that followed, both Kim and Mersereau said that advisors would be wise to follow a very systematic process. In fact, Mersereau said that negotiating the integration of the two staffs may actually be the single most important key to making the merger successful in the long run. "People always want to go straight to the financials," Mersereau told the group, "but the financials, in my opinion, need to follow the vision and the assessments, because once those things are anchored, you can figure out how to make the deal work."

Planning Alternatives' assessment process starts with an evaluation of the respective cultures of the two firms, with an emphasis on the client experience. "We look at the deliverables that clients are receiving, and then take a thorough look at the respective operations, tools and systems, synergies and especially the staff roles," Mersereau said.

After the deal is signed, Planning Alternatives and the merging firm will identify team members from both organizations who will hold meetings to ensure that the agreed-upon merger will be able to manage any organizational roadblocks. "We basically say: *here's what it will look like when we come together*," said Mersereau. "*Given that, what are some challenges and obstacles?* It's a way for both sides to get to know each other on a personal level as well," he added.

Kim, whose firm now has 150 employees in nine locations, was speaking from recent experience. She and her team have overseen two integrations in calendar 2016: Hokanson Associates in January and The Glowacki Group in April. In her experience, the integration process can be divided into three parts.

"The discovery phase of the process can last months and sometimes years," she said. "So in that early stage, we try to involve as few people as possible—so that the rest of the firm can continue to function and serve our clients."

Aspiriant has created a checklist that lists 18 key issues to consider before a merger will move forward, and after mutual evaluation,

Nathan Mersereau: The financials need to follow the vision and the assessments.

each is given a color code: red (meaning the two firms are basically incompatible), yellow (discussions needed) and green (compatible).

"Unless all 18 issues are yellow or green, the deal is unlikely to happen for us," said Kim. Perhaps the most problematic "red" would be the investment philosophy. "If we think that the investment philosophies are very different—say, if one firm uses all active managers and maybe is picking stocks, compared with our very different approach," said Kim, "then we're very concerned that we may not be able to transition clients in a reasonable timeframe."

If the discovery phase is going well, the principals will gather input from key clients of the firm to be acquired, which serves as a soft way to inform them of the intended merger. "When clients are just finding out as we are signing documents to merge, it becomes a lot of work," Kim explained. "This way, we have six to eight weeks to educate the clients on why we're doing this, and make sure they feel comfortable with the change that is about to happen."

Once the transaction closes, the second phase begins. An advance forces team, led by Aspiriant's Chief Operating Officer and including representatives from eight departments (IT, compliance/legal, HR, administrative, investment operations, finance, marketing and wealth/investment management) creates a 6-to-8-week schedule of weekly meetings to compare systems, policies and procedures.

"There is only one goal of this team: to make sure that we have all the 'must-haves' on the first day after the transaction closes," said Kim. "We want everybody to know how to send emails and use our phone system on day one. When there is a system change—for example, a CRM change—our IT team will meet with one contact person at the other firm, to pinpoint, what are the important things that they need from their CRM? At the same time," Kim added, "I'll reach out to our custodians and say: *this is our transaction day, let's get together and talk about all the details*. The other firm will typically have someone who is in charge of managing the custodial relationships, who knows all the client accounts and types, and that person will join me on the call."

There's a big difference between being having the 'must-haves' under control and a full seamless integration. Once the advance forces team has done its work, a phase two integration team, again led by the chief operating officer, meets every two weeks with its counterparts at the other firm.

"Depending on the complexity of the infrastructure and integration of policies, procedures and people, this work may last 12 to 18 months," Kim said. "Meanwhile," she added, "most of the transition of client assets happens gradually as clients are coming in for meetings. Some portfolios can move within the first quarter after the transaction date, but most don't move until six months after the merger."

Some of these delays will be internal. "Our new advisors need to learn our new platform," Kim explained. "They have to learn our story before they can go out and talk to clients about it."

Kim offered some of the lessons she and the firm generally have learned from a variety of integrations. "You can never over-communicate with your new people," she said. "Don't be afraid to send yet another email just to remind people what the process is when you're doing a system conversion."

Meanwhile, make sure you take the time to define and compare vocabularies. "Just because you're using the same words, doesn't mean those words mean the same things," Kim told the group. "It's important to make sure, up-front, that you're talking about the same thing."

Young Kim: A 3-phase process for consummating the operations side of a merger.

Make sure people know who to go to for answers and resources. "Who can they talk to if they're frustrated about something?" said Kim. Also: don't avoid difficult conversations or topics. "I'm sure many of you have gone into meetings where you know there is an elephant in the room that nobody wants to talk about, and you leave the room frustrated," Kim said. "At least say: *I know this issue exists, and we will talk about it later, because we have other things that are more urgent that we need to deal with*."

Also: don't underestimate the impact of the process on peoples' emotions. Be sensitive and be understanding.

"I think the important thing," Kim added, "is that hopefully the people who are joining you will find some connection with the folks at the other end, so they can go to that person and say: *I just want to come talk to you and pick your brain, and have an open discussion*. Having those conversations with the people who are joining your firm is critical," she said, "so that they can feel comfortable talking about anything without risking being embarrassed or creating a huge problem that we all have to deal with. Sometimes," Kim continued, "they just want to talk about options, and giving them a resource they can go to to have that conversation is important."

Kelli Cruz: Identify important projects and see who steps up to drive them to completion.

"When people have common goals," Mersereau added, "you'd be amazed at what you can accomplish together. Remember that sometimes we have to remind each other that we do have this common goal, and refocus and get re-energized."

Operations Leadership

The profession has evolved a relatively clear career path for its aspiring senior financial planners, but the situation is much murkier for people on the operations side of the business. How do you develop leadership in your ops team?

In another panel discussion at the Insider's Forum conference, Kelli Cruz, of Cruz Consulting in the San Francisco Bay Area, said that the best process she's seen is to identify important projects at the firm and see who steps up to the responsibility of handling them.

For example? "I worked with a hybrid RIA that was making a change in their broker-dealer, which was a huge project," she told the audience. "There were changes in technology, workflow and collaboration, and the team would be working with different vendors. One person stepped up and started leading the process," Cruz continued. "Later, when the company decided that they needed a dedicated operations manager, guess where the first place they looked was?"

Fellow panelist Jeff Ramsey,

Jeff Ramsey: *Make sure the ops team is empowered to speak up when necessary.*

Amy Flourry: *Which of your ops staff can connect their role with the larger goals of the firm?*

Chief Operations Officer of Lee Financial in Dallas, said that you want to identify ops professionals who are willing to speak up about their needs to an advisory team that may see them as subservient members of the firm.

"A lot of times, it can break out into an "us vs. them" dynamic between ops staff and the client-facing team," Ramsey said. "Ideally, the leadership in your operations group will give their team the power to push back if they aren't getting what they need from the client-facing advisors."

In his personal experience, Ramsey found situations where his people weren't getting the correct information to open accounts from advisors.

"Once we had the right leadership in place, we made it clear that it's okay for the operations people to say *I'm sorry; I can't complete this*," Ramsey explained. *"We're missing this line, and that line, and that one, and if you can get that information accurately, we'll get the accounts opened. If not, we'll be having issues of having to go back to the clients two or three times to get the paperwork signed. If you help us do our jobs properly, it makes you look better in front of the client."*

Amy Flourry, Director of Operations of Rehmann Financial (17 office locations in Michigan, Ohio and Florida), said that future ops leaders tend to be proactive in looking at how they fit into the bigger picture. They will try to connect their work to the advisory team and the firm as a whole.

"I encourage all of our associates to talk together and say, *okay, my advisor's goal is to do X amount of revenue this year, what are the things that I can specifically do to facilitate that?"* Flourry told the group. *"Can I schedule ten meetings for her? Can I provide different access to software programs? What are some specific, tangible things that I can do to help you get there?*

"At the end of the year," Flourry added, "achieving the goals that the associate set will be part of what goes into how they're incentivized and promoted. it helps people feel like they have some control over what they're doing," she added. "It's not just a job description that was provided; they also get to participate in setting their goals."■

Client Services

Forms for Life

Synopsis: ***A national expert on dealing with client grief offers a checklist for how you can simplify a client's end-of-life experience.***

Takeaways: ***Get a signed diminished capacity letter that lets you communicate with the children if you notice early signs of cognitive decline. Use the Five Wishes document and POLST form to ensure that clients get the type of care they want at the end of their lives.***

If you ever want to experience what it's like to drink from a firehose, I recommend that you sit somewhere near the front row of a session by Corgenius CEO Amy Florian (*http://www.corgenius.com*).

Forian, author of *No Longer Awkward*, coaches financial planners on tough client-related grief and transition issues, and is a grief education psychologist—called a "thanatologist" in the psychology profession.

In a presentation at the recent TD Ameritrade Institutional Elite Advisor Conference, she sucked the oxygen out of a breakout session, attracting so many attendees from other rooms that the staff had to keep bringing in extra chairs throughout her talk.

This presentation was not about gracefully handling grief-related conversations (Florian's book is a great resource on that topic), but instead offered nuts and bolts planning options that would help families navigate the painful transitions around the end of a client's life.

Wills—for clients and their children

Florian advised the planners in the room not to assume that their clients have their wills in place. "It's a real statistic that 72% of women do not have a will," she said. And she recommended that the will include a personal property memorandum. "This is how you list all those sentimental possessions and who gets what," she said.

> ***Making sure clients' adult children have their wills is an excellent way to develop a relationship with the next generation.***

Why wouldn't you just include these items in the will itself? "People have a lot of stuff, and a lot of it has mostly sentimental value," Florian told the group. "If they change their mind, or if there's a divorce or death in the family or they become estranged from somebody, they shouldn't have to go back to the lawyer and redo the entire will," she explained. "With a personal property memorandum, they can just redo it, sign it, date it, notarize it, and the last signed, dated version is the valid one. In 30 states, it is recognized as part of the will as long as it is referenced in the will."

Then Florian asked the audience to go one step deeper. "Do your clients' adult children have a last will and testament?" she asked "Have they designated a guardian for the clients' grandchildren? This is a great opportunity to develop a relationship with the next generation," she added. "Tell the parents that you'll refer them to a lawyer to make sure it gets completed."

Ethical wills

You might be surprised to learn that clients are often much more interested in creating an ethical will than the legally binding estate document. "When people were asked whether they thought it was more important to pass on their material possessions or their wisdom and life lessons in an ethical will," Florian told the group, "77% said they would rather pass on wisdom and life lessons. And," she added, "the same research found that that was actually what their kids preferred to receive too."

Creating this document can be as simple as encouraging your clients to write a letter to their kids and grandkids. Or it can be more elaborate. Florian cited the example of a financial planning client who was told that she was dying of breast cancer. "At the time, she had twin 11-year-old daughters," she said. "She created three videos, one to be shown to her daughters shortly after she died, one to be shown to them when they turned 16 and one to be shown to them when they turned 22 and had graduated from college."

In each of those videos, the mother gave her daughters the wisdom, the life lessons and the messages that she wanted to bestow at each age, since she knew she wasn't going to be there in person to do it herself.

Even if you have a diminished capacity letter don't make the call to the family as soon as you notice signs of cognitive decline. Talk to the client first.

If you want to create a more formal document, Florian recommended Ellen Goodwin's Conversations Project (*http://theconversationproject.org/*). "It asks gentle questions, provides videos and helps guide families through these discussions," Florian told the group.

Insurance

Then Florian turned to insurance coverages. When thinking about life insurance, she recommended that you have your clients make a list of everybody they regularly say "I love you" to. "Then say to them," she said: *"Out of that list, for whom do you feel some degree of financial responsibility? Let's make sure you can fulfill your financial responsibility to the people you love, whether or not you're here in person to do it, no matter what happens. You can be the provider you've always said you want to be.* You don't buy life insurance because you have assets," Florian added. "You buy life insurance because you have somebody you say "I love you" to, and you want to make life easier for them."

Today, it may also be wise to buy life insurance on a clients's sons or daughters. Why? "We have people graduating with these huge student loans," Florian said, "and who's co-signing them?" she asked rhetorically. "That means that if something happens to that child, the parent is on the hook for $80,000 worth of debt. So why not get a term life policy on the kid? Do you know how cheap a term life policy is on an 18-year-old?"

Diminished capacity letter

Suppose a client starts to show signs of dementia, but it would be an invasion of privacy for you to communicate what you're seeing to the kids and grandkids. Florian was among the first to offer a template for what she terms "a diminished capacity letter" in her *No Longer Awkward* book; she told the audience that the gist of it is: *I, Amy Florian, give John Smith and Jane Doe, my financial planners, permission to call the following people if they notice any diminishment in my mental, physical, psychological or cognitive capability.*

"Clients give you the names of the people they trust, often their kids. They sign and date the document, you keep a copy and you send a copy home with them," Florian said. "That way, if you spot a problem, you don't have to worry about complicated privacy issues. Your client has given you explicit permission as to who you can call if you notice that there's any problem."

When does that letter come into play? "Suppose you notice that your client has asked the same question three times, even though you already answered it," said Florian. "You notice that they're becoming more angry or more aggressive. You notice that they used to be able to calculate percentages in their head, and now they can't any more. You notice that they can't remember where they parked the car in the parking lot. Or they might be buttoning their buttons the wrong way."

At this initial noticing stage, you don't pull out the phone numbers listed in the diminished capacity letter. "You start by documenting those things, and you talk with the client first.

Florian role played this dialogue: *"Helen, I'm concerned because I noticed that you asked the same question three times, and it took you an unusually long* *time to remember your son's name. Remember that booklet I gave you? It's possible that you have a Vitamin B-12 deficiency, it's possible you have an infection, or maybe you need your medications adjusted.*

"If I'm noticing signs like this, chances are your family is noticing it too. Before they start accusing you of having dementia, why don't you go to the doctor to get it checked out? Maybe all you need is antibiotics.

"If Helen gets angry at that, you should be concerned," Florian added, "and the angrier she gets, the more concerned you should be, because anger and aggression is one of the early signs of dementia."

If the client doesn't make an appointment, or she says she is going to but forgets she told you she was going to, then follow up. say: *I'll call you next Tuesday just to see if you made your appointment.*

If, after all this, the client won't cooperate, that's when you call the people listed on the diminished capacity letter. "But you do not call them and say: *I think your mom has dementia*," Florian cautioned. "You call them and say, *I observed this on this date, and this on this date, and that on that date. These are worrisome signs. I recommend that you get your mom to the doctor. I've talked to her already, and I'm not having much success. I think the family needs to get together and get medical attention."*

Power of attorney

I think everybody in Florian's audience knew the importance of a power of attorney document. "The thing to keep in mind," she said, "is that many custodians, banks and investment firms require their own forms. And many of them require that it be signed again on a regular basis, some of them every three months, some every six months, some every year."

When preparing the power of attorney, make sure to ask the client about any assets held away that are not under your management.

What sometimes falls through the cracks, said Florian, are assets held away that are not under your management or supervision. "You have to say directly: *if are there any assets that you don't have with me, you don't have to bring them to me,*" said Florian. *"Just tell me what they are, so I can make sure that you're covered in the document, so you have the proper power of attorney for all of your investments, wherever they are."*

Health directives

From there, Florian talked about the importance of health directives, healthcare proxies, living wills and advance directives. "I recommend that you make these documents part of your intake process, when they first become clients," she told the group.

Why so soon? In addition to the obvious (this ensures that these important documents don't fall through the cracks), Florian believes that your concern about these issues can be a differentiator. "Imagine that you have a prospect sitting down in front of you who is probably interviewing three or four other financial planners," she proposed. "You say, *because we are comprehensive in our service offering, and we care about your life, not just your money, here's a list of documents that we want to make sure you complete or update within the next year, and we revisit these every single year.*

"If there are any of these documents that you don't want to talk about, or you don't want to have them, then you sign off on it. We try to make sure all of these things are in place or updated so that you're covered no matter what. Not just financially, but in other ways too.

"Don't you think that will set you apart in the client's mind?" Florian asked.

She recommended that you make these documents a part of your annual review. "None of these things are any good if you don't keep updating them," Florian said. "If you're only going to update when there's cognitive decline, what if you don't realize there's cognitive decline? By the time you get around to updating, the client is incapable of doing it."

Florian started with the living will, which specifies what the client wants in the way of medical treatment in different situations. You should tell your clients that this is as much for the kids as it is for them.

"When we studied grieving people," Florian told the group, "we found that grief is longer, more complicated, and involves more guilt, more second-guessing and more regrets if those people had to make medical treatment decisions for their loved one without knowing what their loved one wanted."

Unfortunately, every state has its own form. For that reason, Florian recommends something called a Five Wishes document. "It is more comprehensive," she said. "A living will is typically not legally binding, but the health care proxy, the power of attorney for healthcare, is one part of the Five Wishes that is legally binding.

This is where your clients specify whether they want music playing in the hospital room, or a religious icon on the table, whether there's a particular hymn that they want at their services.

The best part is that the Five Wishes document gets away from that "every state has their own version" problem because in 42 states, the template document is considered to be a standalone valid living will, and in the other eight states—Alabama, Indiana, Kansas, New Hampshire, Oregon, Ohio, Utah and Texas—it is a valid living will if it is attached to the state's standard form.

"Basically, it's nationwide," said Florian. "Any client, anywhere in the country can have a Five Wishes document. It is signed, dated, notarized, and like any document, the last one that is signed and dated is the valid one. So even if they already have a living will, they can have a Five Wishes, and when they sign it, date it, notarize it, any previous document gets superseded."

Where do you get a copy? The website *www.AgingWithDignity.org* sells copies of the Five Wishes document for $5 each. "And," Florian said, "you'll find that there are versions of the Five Wishes document for young adults and for children who are diagnosed with a serious illness."

You might want to cover all bases by having your clients create a POLST Paradigm Form (*www.polst.com*). POLST stands for Physicians Orders for Life Sustaining Treatments, although some East Coast states refer to MOLST: Medical Orders for Life Sustaining Treatments. "Iowa had the iPOST: Iowa Physicians Orders for Scope of Treatment," said Florian.

No medical professional who follows a POLST form in good faith can be sued for misconduct for acting on the client's expressed wishes.

Two things are unique about a POLST form:

1) Your clients fill it out with their doctor, and when both doctor and patient sign it, it becomes a doctor's standing order. It can be entered into the permanent medical record.

2) No medical professional who follows the POLST form in good faith can be sued for misconduct.

Why is this important? "The number one reason people don't get what they want in a hospital is liability," Florian explained. "Imagine you're the doctor," she proposed. "You have an unconscious patient in the bed. You have his living will. You also have his family sitting there saying, *don't you dare pull the plug!* Who is the doctor going to listen to?" she asked rhetorically. "The family members are the ones who are going to sue."

The POLST form takes away that obstacle, because medical professionals can't be sued if they follow it in good faith. "Plus," Florian added, "it's in the permanent medical record, so it's accessible wherever medical records can be accessed. It becomes the doctor's standing order, while the living will, even if you have written down your wishes, is not legally binding."

Florian said that not everybody can get a POLST form; it is mostly used for terminally ill people. "Some doctors won't sign it if somebody is young and healthy," she said. "But if your client has a serious illness, or a chronic illness, then they should have a POLST form."

Later, she recommended that clients have a Five Wishes AND a POLST form. "The Five Wishes has a lot of things in it that the POLST doesn't," Florian explained.

An audience member asked: *If there is a discrepancy between the two, what's going to take precedence?*

Florian's answer: The POLST, because it is the doctor's standing order. "But redundancy is your friend," she added. "There's no reason not to have both."

Medical privacy

Then Florian brought up an issue that most planners and clients would never think about, a (perhaps unintended) consequence of the new medical privacy laws, which govern who can have access to a person's medical information.

How does this impact clients? "Many of your clients either have kids or grandkids who are turning 18 and going to college," Florian said. "Once they turn 18, they're an adult. If they end up in the emergency room at the hospital at college, and the parent calls and says, *tell me what's happening with my son,* The hospital officials will say, *I'm sorry. We can't give you that information*.

"It doesn't matter that you're the parent," Florian added. "They're an adult, and you are not on their HIPPA form."

To prevent these kinds of situations, Florian recommends that you have the college student fill out a HIPPA form and put the parents' names on it. "Give a copy to the local hospital, so that their parents can have access to their medical records," she added.

Accessibility

Once you have the client's will, personal property memorandum, ethical will, diminished capacity letter, power of attorney document, Five Wishes and POLST forms in place, is your work finished? Florian said that many clients will take these documents and put them in a safe deposit box, where they are basically inaccessible if the client becomes incapacitated.

The alternative? "I recommend that you keep a copy of all these documents on behalf of your clients," Florian said. "And the easiest way to do that is in a digital lockbox, where you can give different people permission to see different portions of the whole picture."

Post-death planning

At the end, Florian suggested that you also have protocols for communicating with the survivors of a client who has died. "When there has been a death in somebody's family, I hear people say: *I wish folks would quit bringing me food. We'll have to rent an extra refrigerator because of all these friends and neighbors bringing all this food*.

"But," said Florian, "who's bringing food on the 6-month anniversary? Or on his birthday?"

She recommended sending a card on the deceased client's birthday, saying something like: *I can't take away the pain of a day like today, Jim's birthday, but I hope you can at least enjoy a cup of your favorite coffee with the enclosed gift card*.

Florian has written material for condolence cards, and you can buy some of these from a company called Cards By Anne (*www.cardsbyanne.com*). One of them says: *We forever carry the burning ember of those we love within us. They are gone from our sight but not from our hearts*.

"I get nothing, no royalties if you buy cards from Anne," Florian was quick to say, "but she is a fabulous resource for condolence cards, birthday cards, anniversary cards, holiday cards, and all of them are only $1.25."

This, believe it or not, was not everything Florian said in her hour-long presentation, but it's enough for now; one can only hold so much of the information roaring in through the fire hose.

The essential point is that there are fairly simple things that financial planners could be doing to simplify their clients' lives, particularly at the end of life, and doing these things can be a differentiator in a crowded marketplace.

At the least, paying attention to these important documents shows that you care about something more than the clients' assets. At the most, it is a service that can make a difference at a time when differences really matter to your clients.■

Parting Thoughts

The Energy that Fuels the Profession

I've been reading a review copy of Julie Littlechild's new book, *"The Pursuit of Absolute Engagement,"* (I'll send a link when the book is available) and enjoying not just the way it's written, but the way that it provides a workable blueprint for financial planners to change their lives. I approached this same practical "change your life" goal in my own (recently-published) book, "The New Profession," by giving examples of successful advisors and describing their most powerful insights in multiple dimensions. Julie takes the approach of helping you change yourself, internally, step-by-step, so that you actually build from the inside out a better, more effective more engaged "you."

While reading her book, I began to understand the odd divide between Boomer and Millennial planners—the latter the successors of the former. When the Boomer planners started out, they experienced a maximum of personal satisfaction as they engaged with clients who really needed help in their lives.

Inevitably, during this early time period, they experienced a minimum of prosperity. They needed to help their clients succeed financially before they, themselves, could achieve financial success.

Fast forward to today, and that's exactly where Millennial planners are. That is, their natural evolution will be to start engaging with their unwealthy peers and experience that off-the-charts personal satisfaction that comes when you help people learn the ropes of financial success.

The problem is that many planners have gradually, incrementally, too-slowly-to-notice, traded personal satisfaction for prosperity. They're running financially-successful business, but they've forgotten some of the financial pain and personal satisfaction of their early days. As a result, they're impatient for Millennials to bring in "appropriate" clients with substantial sums to invest.

This attempt to short-circuit the life-cycle of a financial planning career might work for an occasional advisor, but those will be the rare exceptions. When Millennials market themselves, they need to go through the process of building their client base one successful engagement at a time—and if they're good, the net present value of those "inappropriate" younger clients will be as great or greater than the aging decumulators that the Boomer advisor is currently attracting.

In my book (available here: *www.bobveres.com/amember/signup*), I predict a lot of trends, helping advisors recognize where their profession is going to be ten years in the future. In Littlechild's book, she advocates for absolute engagement, which means recapturing that personal satisfaction that has ebbed out of many Boomer advisors' lives. Their Millennial successors can tell them where to find it, if the founder/advisor is willing to listen: it's in recovering that incredible feeling where you help people who need your help get to where they want to go. If your clients are already there, that engagement level has ebbed away.

The two books intersect in two ways. Both advocate that you identify a group of individuals that you really enjoy working with, where you know you can add remarkable value to their lives. For Millennials, this may be any of their peers—at least initially—whereas for a mature firm, it means defining a target market, a subset of those people who meet your minimums who happen to have specialized challenges where customized advice really makes a difference.

And both books point to a different revenue model. AUM has served the profession really really well, but it has too many conflicts of interest to be the model of the future. And AUM is a poor way for Millennial advisors to charge their peer clients for the services they provide, particularly if those clients have high incomes but are burdened by student debt.

Some years ago, I said that some of the energy had ebbed out of the financial planning profession. Littlechild's Absolute Engagement book helped me see where that energy had been, and how to recover it. Few professions offer the level of personal satisfaction that you can get from being a financial planner. We just need to remember how important that satisfaction level is, and find ways to bring it back into our lives.

And, in the meantime, we need to let the Millennials have their turn at discovering the positive energy that fuels a career in financial planning.

It's our profession's version of the circle of life. ■