

# PUBLIC SUBMISSION

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**Docket:** EBSA-2010-0050

Definition of the Term “Fiduciary”; Conflict of Interest Rule—Retirement Investment Advice

**Comment On:** EBSA-2010-0050-3491

Definition of Term Fiduciary; Conflict of Interest Rule-Retirement Investment

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## Submitter Information

**Name:** Michael Gray

**Address:** 5459 Woodbury St

Weston Lakes, TX, 77441

**Email:** stayinplane@yahoo.com

**Phone:** 206-669-5295

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## General Comment

Scrap the Fiduciary Rule.

I have been a stock broker for 27 years. My business is 100% commissions. Changing to fee-based would triple my income but would not be good for clients. I educate clients on benefits of 'buy n hold' for long term. If I was a fiduciary, my first advice to long term investors would be to avoid the level-fee model. Investors are better served with commissions if they follow Warren Buffett's advice of low turnover. 'Buy n hold' is superior for vast majority of investors as Dalbar studies show. Studying flesh and blood investors over time confirms there is only one effective strategy for the majority: 'Buy and hold'. Changes in objectives or allocation should be the exception, not the rule. Buy consistently over time.

My clients choose commissions after seeing data showing higher volume trading

correlates to lower returns for most investors. They begin to understand why Buffett advises 'buy n hold'.

A compounding level fee of 1% is dramatically more expensive than a commission model over longer term. What's more, this level fee is in addition to any internal fund mgt expense. Level fee would eat up the dividends so important to long term investing.

Occasional portfolio changes incur commission, but only on money being changed, not entire portfolio. Commission is at early stage when the principle is smaller, whereas level fee is every year, including later larger years making it so onerous over time.

I help clients choose core holdings that meet long term objectives. If my sole criteria is cost I can easily choose indexes, and I often do as a portion of an account. Cost, of course, is only one factor in achieving results.

The equity choice I have most often suggested for clients is 'American Funds' mutual fund family. They began operations in 1931 and are now one of the largest and most respected money managers in the world. Their funds are among most widely held in IRA's through brokers/ reps/ advisors. Their "A Shares" are economical over time with internal management expense of approx .65% for domestic funds. Many clients receive reduced commission through breakpoints. Should clients experience a change to their objectives, they can move money from fund to fund at no cost due to American Funds free exchange policy.

Recently (2/27/17) CNBC.com featured a rare commentary by Tim Armour, the CEO of American Funds (Capital Group), entitled: "Warren Buffett is wrong about this investment strategy". This piece, along with the American Funds "ICA Guide", should be read by every DOL member as they show the many decades of documented long term excellence and consistency. Looking at historical equity results, their index-beating average performance grew with time.

Impact: Consider 1% level fee on initial investment of \$100,000 using 9% return over following time periods:

#### **TIME PERIOD COMPOUNDED 1% COST OVER THE PERIOD**

10 Years: \$ 15,190

20 years: \$ 51,152

30 years: \$136,296

40 years: \$337,861  
50 years: \$815,203

Imagine the increase if additional money was added every year. It is CHOICE that give consumers power and for the DOL to believe that investors are unaware is to ignore the current sea change as many investors convert to low-cost index funds. Reducing consumer choice is to not understand the miserable history of price controls. Given the above case for avoiding level fees, why not instead simply continue to give investors choice, or a waiver to opt out.

Why I won't become a fiduciary -

The "Fiduciary" label can turn out to be misleading. (The "Affordable Care Act" comes to mind.) Fiduciaries, with the best of intentions, may advise in ways that protect themselves legally instead of true thoughts about where market opportunities may lie.

Warren Buffett has famously said that he doesn't know where prices will be in a given time frame. I repeat it for clients in order to reduce out-sized expectations. I educate clients with asset allocation and investment decisions. I am hired for my investment knowledge and experience, not my ability to forecast markets. Trust is earned over time. Clients learn to better understand history and cycles which can lead to more informed choices and less likely to fall prey to their own behavior. It is not for me to take on client's market risk, which is what a Fiduciary role may imply to an investor, or to the attorney bringing potential action.

From 1990 to 2006, people across the country borrowed too much money, only to blame the lenders. I do not want to be the next scapegoat.

Competition and choice reduce prices, not mandates. Your decision to dismantle the Fiduciary Rule will allow me to continue to help investors with their IRA's.