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Department of Labor,

I am an attorney who has represented hundreds of investors in the past 15 years. From my experience, the DOL fiduciary duty rule is extremely important. The reason is not just investor protection, but to rectify the law to be consistent with the general expectations the investing public has concerning financial advisers – expectations created by the financial industry itself.

Most people think that their financial adviser's job is to look out for their financial interests. This differs greatly from how the financial industry views its responsibilities. Financial advisers believe their job is to make their firms as much money possible for them and their firm. If the investor gets semi-suitable investments and does not lose his shirt, well, that is just the cherry on top. The old saying in the securities brokerage industry goes, "you have the broker, brokerage and the investor; and if two out of three make money it ain't bad."

So why do investors believe their interests come firs? Because of the image the financial industry has created through advertising. Case and point is a recent Raymond James commercial. In that commercial, an investor named Higgins has a magical tree that bares golden fruit. One day, the unthinkable happens. The tree is split in half by a lightning strike. Never fear. Higgins with the help of Raymond James had replanted a portion of the plant in a locked room in a house of the broker's. Tree and golden fruit saved due to prudent planning. Closing scene, "Raymond James, life well planned."

The metaphor is clear: a securities broker is more than a salesperson - the broker is going to save the investor's golden fruit, aka your retirement savings, threw foresight and dedication, even if at the broker's own expense.

This is the message not just with the commercials of Raymond James but all other securities brokers. Whether it is advice to grow your golden fruit tree in a locked room or a bull negotiating a china shop the message is the same. That message is that the broker will look out for you, tell you what you need to know, protect the investors' assets even if it is at the broker's own expense and put the investor's interests first. This makes financial advisors sound like other professionals an individual may retain, like a doctor, lawyer, accountant or architect. But that would mean brokers are your fiduciaries. Investors come to this conclusion at their own peril.

The lack of a fiduciary duty has led to losses of many investors. Poor investments often pay higher commissions to give brokers incentive to sell the product. The result is that many investors looking for income get placed in illiquid investments that may produce some income, but the income is sporadic and market to sell the investment is non-existent. This was seen in the large number of non-traded REITs sold to investors over the last decade to income investors. Such REITs may have been unstable, illiquid and ultimately underperforming compared to other income investments, but the commissions were much higher.

The investor, who has struggled and saved to be able to purchase the investment with hopes that it would help with retirement is left with a dog of an investment. At the same time, the adviser and his firm make a handsome commission. Well, in line with the old adage, at least two of the three made money.

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