The Hypocritical Assertions of CFP Lobbyists

CFP Lobbying Organization Calls Out RIAs

November 17, 2014
by John H. Robinson

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The article below is provided in response to views expressed by the executive leadership of the three member organizations of the Financial Planning Coalition. For the record, the author of this piece fully respects the qualifications of individual CFP certificants to practice financial planning.

“I’m good enough, I’m smart enough, and doggone it people like me.” In a reprisal of the Saturday Night Live classic skit featuring comedian and former Senator, Al Franken (D-MN), I stand in front of the mirror repeating Stuart Smalley's daily affirmation. The source of my angst is a letter I received last week from the Financial Planning Association trumpeting the findings of a “research study” commissioned by the Financial Planning Coalition to help advance its political agenda.

The subtext of the letter effectively informed me that I am not ethical enough or smart enough to be a financial planner.

For reference, the Financial Planning Coalition is a Washington D.C.-based lobbying organization comprised of the trinity of the financial planning universe – The CFP Board of Standards, the Financial Planning Association (FPA), and the National Association of Personal Financial Advisors (NAPFA). A primary aim of the Coalition is to promote the Certified Financial Planner designation (which are owned by the CFP Board of Standards) as the regulatory standard for the financial planning profession to the exclusion of all other non-CFP financial planners.

The letter, signed by the CEOs of all three organizations (none of whom are CFPs), reported that the research study found that demand for true holistic financial planning guidance runs high. However, it stated, “Consumers are confused and misled by the many titles of financial service providers,” and are “harmed by the lack of regulation of those who hold themselves out as ‘financial planners.’” It also concluded from the research that, “lack of regulatory standards for financial planners encourages many advisors – in part as a result of perceived economic incentives – to hold themselves out to consumers as financial planners without meeting any competency or ethical standards or, in many instances, even providing financial planning services.”
To solve this problem, the letter’s authors proposed, “Reasonable regulatory standards, as embodied in the CFP® certification” to “reduce harm to consumers by requiring financial service providers who hold themselves out as financial planners to meet basic competency standards and to provide their services under a fiduciary standard of care – which requires them to put their clients’ best interests ahead of their own.”

While the letter and its accompanying self-serving “research” (more akin to political polling) are likely generating the desired attention its media-savvy crafters intended, an informed reading of the FPC materials reveals a campaign that is at odds with the ethical preaching of its three member organizations.

The reality of regulation and enforcement

The suggestion that financial planners are unregulated is categorically false, and it is surprising that the SEC and FINRA do not take umbrage at such commentary. The rules governing financial planners are established by the SEC and by the states in which the planners practice. All financial planners (including CFPs) who provide specific investment advice to clients must be affiliated with a Registered Investment Advisory (RIA) firm. Detailed information about the firm must be reported to the SEC each year on Form ADV. Part 1 of the form provides detailed information about the RIA, including its regulatory history. Form ADV Parts 2A and 2B provide detailed information about each individual Investment Advisory Representative (IAR) affiliated with the firm (including all financial planners).

These documents provide detailed information about the IAR’s education, qualifications, and experience and also require plain English disclosure of potential conflicts of interest and any previous complaints. The RIA’s Form ADV Part 1 is generally provided on the firm’s website and all financial planners are required to provide a copy of their Form ADV Parts 2A and 2B to prospective clients before entering into an advisory agreement. Additionally, all RIAs are required under Rule 204A-1 of the 1940 Advisers Act to have and periodically update a Code of Ethics.

Contrary to the assertions of the FPC letter, all financial planners (CFP and non-CFP) are held to a fiduciary standard as defined by the SEC. This standard, which is considerably more stringent than the fiduciary definition the CFP Board applies to its members, requires all financial planners to place the interests of their clients first and, importantly, to disclose all material potential conflicts of interest that may arise from the advisory relationship.

The RIAs and their affiliated IARs are overseen and enforced by either the SEC or by the securities divisions of the individual state(s) in which the RIA conducts business. The SEC directly governs financial planning RIAs that provide portfolio management services and oversee assets greater than $100 million. Smaller firms and/or financial planning practices that provide hourly/retainer/flat fee financial planning with no direct asset management are regulated at the state level. Anyone who holds himself out as a financial planner and offers specific investment advice (including CFPs) but has no affiliation with a state or SEC-registered RIA is acting outside the boundaries of the law.

Hypocrisy
While I have discredited the FPC’s assertion that financial planners are unregulated, I have no disagreement with its view that consumers are confused with various securities industry job titles and have trouble distinguishing between commission-based insurance agents and brokerage representatives and SEC-regulated financial planners. The irony and hypocrisy of the Coalition’s stance on this issue is that the CFP Board’s own policies are likely major contributors to this confusion.

For all of its impassioned advocacy about the perils of commission-based investing, the CFP Board has never prohibited commission-based brokerage reps or insurance agents from obtaining and using the CFP credentials. In fact, they are encouraged to join the CFP Board’s membership ranks. While commission-based registered representatives and insurance agents are generally not permitted to hold themselves out as financial planners, commission-based brokers and insurance agents who are also CFP certificants are nonetheless still permitted to use the CFP marks on their business cards, websites, and other marketing materials. Given this information,

1. Wouldn’t the use of these credentials imply that a person with CFP after his/her name provides financial planning services?

2. If the three FPC member organizations are as concerned about this issue as suggested in the letter, why do they permit certificants who are paid on a commission-basis to use the marks in their communications with the public?

This obvious hypocrisy should not go unnoticed or unchallenged. Since the FPC is clearly calling out the regulatory agencies for lack of oversight and since the CFP Board itself seems unwilling to put the interests of the public above its own in building its membership base, FINRA should consider prohibiting the use of CFP marks on brokerage advertising and marketing materials.

**The “fee-only” fallacy**

Although none of the three FPC member organizations holds any governmental regulatory authority (nor do they have a proactive enforcement mechanism), all three have adopted the position that their individual members may only hold themselves out as financial planners if they provide their guidance on a fee-only basis, which, per the CFP Board, is defined as follows:

> A certificant may describe his or her practice as “fee-only” if, and only if, all of the certificant’s compensation from all of his or her client work comes exclusively from the clients in the form of fixed, flat, hourly, percentage or performance-based fees.

The FPC clearly intimates in their letter that fee-only CFPs are free from the “perceived economic incentives” that lead to conflicts of interest in non-CFP financial planners.

Really? Most non-CFP financial planners are compensated on exactly the same terms. That fact aside, isn’t it intuitively obvious that financial planners who are paid under an asset-based fee arrangement
(the most common form of compensation among financial planners, including CFPs) have a financial incentive to gather as many of their clients’ assets under the asset-based umbrella as possible? Conversely, wouldn’t they have a financial incentive to discourage clients from making financial decisions or transactions (e.g., paying down debt, buying real estate, etc.) that might reduce the amount of assets subject to the fee? Isn’t that a very real potential conflict of interest?

Even hourly, retainer and flat-fee planners are not free from conflicts of interest. For instance, hourly planners may have an incentive to employ a “heavy pencil” when recording their time or to engage in “value billing” (charging based on the planner’s own perception of the value of his knowledge and services, rather than on actual time spent). Flat-fee planners may also have an economic incentive to do as little work as possible since their pay is not directly tied to performance.

Conflicts of interest exist in all financial planner compensation models and for the FPC to suggest that CFP certificants are somehow uninfluenced by the basic economic principles of incentives and utility maximization that drive our capitalist economy is misleading to the public.

**FPC’s stones and glass houses**

In its letter, the FPC claimed that non-CFP financial planners tend not to provide comprehensive financial planning services, lack educational qualifications and are less ethical than the higher caste of CFP certificants.

Before casting such stones, the FPC would do well to look inward.

The FPC’s asserts that CFPs are more likely to provide holistic financial planning services than their non-CFP planner brethren. Why is it then that the vast majority of CFP certificants are compensated based upon fees tied to the value of investment portfolios? For anecdotal evidence of the investment-centric predisposition of most CFPs, one needs look no further than the websites of the individual board members of the NAFPFA and the FPA. Such a review reveals that many of the leaders of these organizations charge based on investment values and place investment management at the center of their practices while paying mere lip service to important non-investment financial planning topics.

As for ethics, contrary to the FPC’s assertions, there is no quantitative evidence in the research study to support the notion that CFPs are any more trustworthy than non-CFP financial planners. In fact, it can be argued that recent advertising and marketing efforts by the CFP Board, the FPA, and NAPFA aimed at encouraging the public to only trust fee-only financial planners who hold the CFP designation may actually make the public more vulnerable by creating a false sense of security. The fallacy and danger of fostering such implicit trustworthiness is illustrated by the following sampling of high profile CFP fraud convictions.

- An Earlier Ponzi pain lingers
- Fee-Only Pioneer Zabalaoui Sentenced To 8 Years
Waking up from an investment fraud nightmare

CFP Board strips credentials from admitted Ponzi-schemer

CFP Board Disciplines Planner for Alleged Fraudulent Use of $1.2M

Clearly, if the threat of years of jail time did not deter these former CFP professionals from committing their crimes, the CFP Board’s oft-touted Code of Ethics probably does not have much power either. For the CFP Board to suggest in its marketing campaigns that the CFP designation somehow makes its members inherently more trustworthy and ethical than their competitors seems patently naïve and irresponsible.

There is also nothing in the FPC’s research study to suggest that CFP certificants are any more qualified or educated than non-CFP financial planners. Prior to 2006, CFP candidates were not even required to have a college degree. Even today, applicants for the CFP program are not required to have a degree or any quantitative background in finance or economics. Further, while the CFP Board openly promotes the CFP curriculum as “college level coursework,” in its brochure describing the use of the CFP credentials, the CFP Board states that certificants may not refer to the moniker as a professional designation or degree, since it is not equivalent to a college degree and has no academic standing.

Calling out the Financial Planning Coalition

The purpose of this treatise has been to highlight the hypocrisy and political motivations of the Financial Planning Coalition and to encourage readers, including CFP professionals, to openly question whether it is acceptable for NAPFA, the FPA and the CFP Board of Standards to employ such misinformation campaigns to advance the goals of a profession that supposedly places ethics, integrity and the interests of the consumer above all else. While this may be how Washington lobbying organizations operate, such tactics are at odds with fundamental principles for which the three FPC-member organizations claim to stand.

For my part, I am pleased to report that my daily affirmations are doing wonders to restore my lost self-esteem. In fact, upon reflection, I would like to think that my financial planning background, qualifications and experience compare pretty darn well to those of most CFP certificants.

I’m good enough, I’m smart enough, and, doggone it, people like me.

John H. Robinson is the owner and founder of Financial Planning Hawaii and the co-owner and founder of Nest Egg Guru. He holds a degree in economics from Williams College and has been in the financial services industry since 1989. He has written or co-authored eight papers that have been published in peer-reviewed academic journals on topics ranging from the ethics of advisor compensation to disaster preparedness to the merits of variable annuity riders to retirement income sustainability. Papers he co-authored on retirement income sustainability won the CFP Board of Standards and International Foundation for Retirement Education (InfRE) 2008 and 2010 Best Paper Awards.
awards, respectively. His practice offers comprehensive financial planning services to individuals and families.