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HOW CAN A FINANCIAL PRACTITIONER EXERCISE FIDUCIARY DUTY

by Samuel Low Sin Piew

A customer had once asked about an insurance plan covering his whole life (before age 65) that pays up to three times the sum assured with premium payable for 20 years only. His financial consultant had recommended a term policy that could be claimed 3 times should the claim be done within the policy term. As a newly launched plan that would benefit the customer from the promotional incentive offered by the insurer, the term policy had a cheaper regular premium rate. However, the financial consultant had not informed the customer about the insurer offering a higher incentive for consultants that sold this plan during the promotional period.

The financial consultant's advice may deem acceptable by some as after all, he did recommend a plan with lower premium rate that also helped the customer be awarded a promotional gift. Many a times, customers would look into the policy a few years later and may feel regretful from the lack of suitability from the plan. The above scenario illustrates the possibility of negligence in recommending a suitable plan should both the consultant and customer not have discussed and compared the detailed differences between the term plan, whole life insurance, number of benefits insured, term period, total premium payable etc.

A wrong recommendation as above may lead to an unfavourable relationship between customer and consultant.

The customer may lose trust in the insurer's brand and worst of all, develop lack of confidence in the insurance business and profession. As such it is very important for financial consultants to exhibit the rightful ethics by recommending a suitable plan that best suits the needs of a customer. Even though the recommended plan takes effect only in an occurrence during the policy term, would this justify that the consultant has done his best for the customer? In general terms, all insurance plans are good plans devised to suit different types of needs for the customers. Would most customers be satisfied if they cannot have the most suitable plan?

Even though the recommended plan pays claim when the insured event happens during the policy term, is this enough to justify that consultant has done his best for the customer?

To sum it all, it is about acting in the best interest of the customer. This is what fiduciary duty is all about. Fiduciary Duty is the highest duty of one party to act in the best interest of the other party.

In the case of insurance practitioners, it is the highest duty of practitioners to act in the best interest of the customers.

Note that the best interest is for the customer and not for the consultant. If the consultant has recommended the best possible plan with the cheapest premium rate in the market, does it mean that he has fulfilled the fiduciary duty?

If the plan is not suitable to meet the customer's needs or it is not the type of plan that customer wants, the consultant has failed to fulfill the fiduciary duty.

Fiduciary Duty is the highest duty of one party to act in the best interest of the other party.

How then can a consultant ensure that he has exercised his fiduciary duty towards the customer?

Here are a few suggestions that a consultant should take note during the advisory process.

1.
Relationship with the customer – At least 2 persons are involved in a financial advisory process. And these people desire a connection with each other – one that enables them to trust each other and work together for a long term. By establishing and maintaining this relationship, both customer and consultant are able to communicate and interact more frequently. Customer will be more open in expressing his detailed needs and desire for the plan. Also his resources and affordability for the plan. Consultant also feels more confident to ask customer for more information to ascertain the customer's needs and concerns. This is surely helpful for consultant to understand the circumstances and source for a suitable plan that matches the customer's objectives.

2.
Objective of meeting – Consultant should be fully aware of the purpose of meeting the customer – to assist them to establish a financial plan for their future. To begin with the end in mind, identification of customer's needs is fundamental. Unless the needs are clearly defined, there is no guaranteed that any recommended plans, no matter how good it is, can be suitable for the customer.

3.
Recommendation of appropriate plan – with the well-defined needs in place, selection of a suitable plan for the customer seems easy. However it is important to note that the recommended plan has to be one that is beneficial and able to meet the customer's needs. A plan in need is a plan indeed. Customer will always be satisfied as long as he is assured that his needs are being taken care of by the plan. This is the peace of mind they wish to enjoy over a long term period when buying a insurance plan

4.
Accurate explanation of plan benefits – impressive presentation is essential and beneficial during a selling process. Accuracy in explanation of benefit is even more essential. Consultant has to make conscious effort to avoid creative terms or phrases that may potentially twist or misrepresent the facts in the plan. Such misleading facts may cause customer to make a wrong decision. This may result in unimaginable financial burdens. For example, if an endowment plan that provides an annual cash benefit payout equivalent to 5% of sum assured, it should be clearly explained that this payout is part of the benefits included in the plan. And not to present it as '5% annual interest' payable in addition to the plan benefits.

How then can a consultant ensure that he has exercised his fiduciary duty towards the customer?

Here are a few suggestions that a consultant should take note during the advisory process. **(cont'd)**

5.
Disclosure of terms & conditions – there is no free lunch in this world. Whilst the customer is satisfied with the list of benefits in the insurance plan, it is equally important for him to know the price to be paid for the plan. Especially the price other than the premium, such as the limitations, exclusions, risks, costs etc. Some of these terms and conditions may result in reduction or absence of benefits that customer expects in the moment of claim or maturity. Eg, loss of use of limbs benefit in an accident plan is limited to accidental injury only. Customer should be made known that the loss of use of limbs by amputation due to illness such as severe diabetic condition will not render the benefit claimable.

6.
Disclosure of facts by customer – duty of disclosure is the responsibility of both insurer (via consultant) and customer. Consultant has the duty to inform customer that they need to disclose with utmost faith the material facts such medical records for the proposal of insurance cover. Failure to do so may result in claim not payable or even insurer having to void the entire policy. This can be catastrophic to the customer's financial circumstance when the money from the policy is most needed

7.
Patience with customer – during the sales advisory process, it is normal for customer to ask many questions. Even some repeated questions. It is a sign that they have not fully understood the plan and they desire to understand more. A wise consultant can emphasize on limitations and appreciate customer's desire to understand better. Patience to give customer more time would allow them to have better insights of the plan. And enable the customer to make a sound decision on plan selected.

8.
Ensure customer understands and accepts the plan – when all discussions have completed and customer has decided to propose the plan, it is good to summarise the benefits and the terms & conditions again. There is no perfect insurance plan with only benefits and no limitations. Besides ensuring the customers understand the benefits suit them, it is essential for them to be acceptable with the terms & conditions. Documentation of their confirmation is beneficial for their future reference. It provides a good reminder should they forget the needs or when the needs have changed.

The suggestions above are just some examples for consultants to exercise our fiduciary duty.

It is impossible to cover the entire scope of fiduciary duties within this write up.

Nevertheless, consultants can be confident to fulfill their fiduciary duties whenever they have the best interest of customers in mind; and to ensure that the interest is been taken care of during the process of financial planning.

It is a mission-focused mindset instead of a motive that is commission-based. One that believes "do unto others as you would have them do unto you". With a heart of compassion for customers and the willingness to travel the extra the miles, fiduciary duty is always a passion instead of a duty.

A little effort to sincerely care for customers can bring about positive outcomes. It builds and establishes mutual trust between customers and consultants.

This positive relationship will motivate the customers to spread their experiences to their circle of influence by word-of-mouth.

They will also speak favourably of the insurer's brand and most of all, speak proudly of the financial practitioners.

It is definitely a price worth paying in exchange to build a business that lasts.

About the Author

Samuel Low Sin Piew is a licensed financial practitioner. He holds the ChFC®/S, CLU®/S designations and is an active member of IFPAS.