

**STATEMENT OF
THE FINANCIAL PLANNING COALITION
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES
ON
THE OBAMA ADMINISTRATION'S
REGULATORY REFORM PROPOSALS**

July 17, 2009

Statement Made by
Diahann W. Lassus, CFP®, CPA/PFS
President, Lassus Wherley & Associates
diahann@lassuswherley.com

Mr. Chairman, Ranking Member Bachus, and Members of the Committee, thank you for the opportunity to speak on the critically important topic of consumer protection in the Obama Administration's financial regulatory reform proposals. My name is Diahann Lassus and I come before you today as a representative of the Financial Planning Coalition, a group of three leading financial planning organizations dedicated to improving consumer access to competent and ethical professional financial planning advice.¹ I also currently serve as Chairman of the board for the National Association of Personal Financial Advisors, the leading professional association dedicated to the advancement of fee-only financial planning.

Most significantly however, I am the co-founder and President of Lassus Wherley & Associates, a women-owned wealth management firm focused on helping families secure their financial future every day. I come before you as someone who deals on the ground with the issues of consumer protection—and confusion—on a daily basis.

At heart, I am a practitioner. Consumer protection and the need for accountability and transparency are not abstract concepts or academic debates—they are the reality my clients and I face every day. Every time I meet with new clients I hear stories about their experience with other “Financial Planners.” Many of them give even me nightmares. These clients often explain that they trusted and followed the planner's advice because the planner said she was putting the client's best interests first. Based on the recommended investments, it is abundantly clear that the planner was looking to profit from commissions and may not have even considered the client's best interests. It is rarely appropriate to transfer funds from an IRA to an annuity with high annual fees and surrender charges, but I see it done often because of the high commissions annuities pay. Other clients are persuaded to invest in complex derivative products without fully understanding the investment, relying solely on the advice of the planner.

Sadly though, these stories are not unusual. Since the Great Depression, financial services regulation has developed essentially along dual tracks: laws governing the sale of financial products and laws governing investment advice. When the delivery of financial services involves a combination of product sales and financial advice however, the dual regulatory structure has led to consumer confusion, conflicts of interest, and gaps in oversight.

One of the most prominent gaps is the delivery of broad-based financial advice to the public. Financial planning as a discipline evolved in the 1960s to provide comprehensive advice across the wide array of areas affecting families including: selecting and managing investments; income taxes; saving for college, home ownership, and a comfortable retirement; obtaining appropriate insurance coverage; and estate planning.

Unfortunately, these areas are covered by a diverse set of existing regulations. As a result, no single law governs the delivery of financial planning advice to the public. The byproduct of this is a patchwork regulatory scheme where financial planners currently maintain as many as three different licenses—insurance, brokerage, and investment adviser—with different standards of care and accountability to consumers.

¹ The Financial Planning Coalition is comprised of Certified Financial Planner Board of Standards (CFP Board), the Financial Planning Association® (FPA®), and the National Association of Personal Financial Advisors (NAPFA).

There is no easy way for consumers to differentiate among the many people offering advice. Industry research shows that nearly 300,000 financial agents refer to themselves as a financial advisor, using titles such as money manager, investment planner, financial planner, and wealth manager. Many are only qualified to sell certain products or to give advice in just one area of the financial services sector, and the ethical and legal standards to which they are held vary widely.² This has led to consumer confusion, misrepresentation, and fraud—all things that the Administration seeks to correct in their financial reform package. That is one reason we were very happy to see the President propose that broker-dealers who provide investment advice be held to the same fiduciary standard as investment advisers. We are pleased that this Committee is considering that proposal and hope it results in an unambiguous fiduciary duty for all financial professionals who provide investment advice and does not undermine the fiduciary duty that already exists under the Investment Advisers Act of 1940.

The Financial Planning Coalition believes consumers deserve the tools and support necessary to make sound financial decisions on their path to the American dream. They should be able to clearly identify competent and ethical financial planners to help them make that dream a reality.

Our goal is to have all financial intermediaries who offer broad-based financial advice subjected to the high standards of a fiduciary. We are working with a group of organizations that represent diverse interests and constituencies to support this concept. We all share the view that the highest legal standard—the fiduciary duty—should apply to all who give financial advice to clients, as we laid out in our July 14 letter to Chairman Frank and Ranking Member Bachus.

Taking a step beyond extending the fiduciary duty, and in an effort to close the regulatory gap I mentioned, the Financial Planning Coalition supports the creation of a professional oversight board for financial planners and advisors—much like professional medical or legal boards—that would establish baseline competency standards for financial planners and require adherence to a stringent fiduciary standard of care.

The professional oversight board would be responsible for:

1. Establishing baseline competency standards;
2. Developing a code of professional conduct;
3. Requiring a fiduciary standard of care; and
4. Investigating and conducting disciplinary hearings.

We seek to apply a principles-based regulation to *individuals* providing comprehensive financial planning services or holding themselves out as financial planners, not to the firms that employ them. This leaves intact other regulatory coverage for institutions and operates consistently with existing federal regulation for broker-dealers and investment advisers, as well as state regulation of insurance producers, accountants, and lawyers.

As a financial services professional I strongly believe that increased transparency and rigorous standards are good for both consumer and industry alike. Consumers instinctively believe that the title “financial planner” holds value. According to a survey conducted by the Partnership for

² CERULLI ASSOCIATES, CERULLI QUANTITATIVE UPDATE: ADVISOR METRICS (2008) (on file with author).

Retirement Education and Planning, advisors who self identified as “planning experts” reported clients with double the total assets of those focused on product sales, as well as three times the total assets under management and a 40% higher annual revenue structure.³ Delivering on a consumer’s expectations is always a sound practice.

As a small business owner without the financial protections and organizational assistance of a large financial institution behind me, I am also very sensitive to charges of increased burdens, be they direct costs, administrative time, or regulatory compliance—especially in this economy. However, the ability of Americans to identify and place their trust in competent, ethical, and professional financial planners, which will help rebuild public confidence in our markets, outweighs these burdens. Comprehensive regulation of financial planning advice, through functional oversight, baseline competency standards, and meaningful enforcement mechanisms, will fill a crucial regulatory gap, decrease confusion, and protect consumers.

The Administration has clearly established a goal to protect consumers and investors from financial abuse. The Administration’s proposals display a strong belief that consumer protection is sufficiently important as a principle to deserve its own “seat at the table.” We fully support the Administration’s five key principles for strengthening consumer protection—transparency, simplicity, fairness, accountability, and access—and we are pleased to see the Chairman carry these principles forward as he works to fill the regulatory gaps to protect consumers.

³ Stuart Kahan, *Holistic Financial Planning is Quite Lucrative*, WEBCPA, May 1, 2009, <http://www.webcpa.com/news/-30943-1.html>.