

FPA of Florida 2017 Fall Advocacy Trip Notes

October 23rd, 2017

Attendees: Chris Draughon, Ashley O’Kurley, Tiffany Beard, Michael Zmistowski, Karen Nystrom and Josephine Colacci

DFS, Greg Thomas

- Use of the term, “financial planner” in regulations: DFS is complaint-driven, so any misuse would have to be reported by consumers or other members of the public. Not hearing any complaints in this area now.
- DOL fiduciary versus state insurance code: Barry thought their suitability standard was more strict than fiduciary, but we pointed out the distinction between appropriate product versus in the consumer’s best interest. Also, they would proceed according to state law rather than the DOL. This demonstrates to me that insurance agencies may not be equipped to support the DOL rule as it applies to retirement accounts funded with insurance products.
- Followed up on Unaffiliated Agent status: Currently between 200 and 300 agents with this form of insurance license. Probably majority are agents between appointments or no longer producing. Not sure how many RIAs hold the license.
- We provided documentation on what financial planning is, the agencies we are governed by, other states that include financial planner in their insurance codes, etc. in an effort to provide Greg and his staff with training. Continued to offer to be a resource.

OFR, Lee Kell and staff

- Vulnerable Adults Model Bill: Lee did not disclose whether he was aware of anyone / entity working on putting forth the model bill during the next legislative session. Indicated it would be unlikely any new regulations would pass through the Governor’s office. They are not pushing the bill through. We did not share our participation with FSDA, but did indicate our support for “may” rather than “shall” language should a bill come about. Got the impression they were not in favor of one or the other, but were not interested in being the agency reported to due to staffing. Lee was interested in what training would be required of advisors to adhere to the bill, and indicated Florida Adult Protective Services already requires citizens to report exploitation.
- There are currently 1700 state-registered RIAs, 1200 which are domiciled here. Met the new Chief of Enforcement. Continue to anticipate RIAs will be audited every 4 years or so.
- Non-AUM based compensation arrangements: We inquired about the prevalence of any RIAs seeking registration who’ve indicated alternative business models using retainer or subscription models. They’ve not seen any that are specific to these models. We asked for their thoughts on how they would react to applicants whose fees may be calculated differently than AUM. Alisa’s reaction was that she would be concerned the fees were high, but was unable to demonstrate how she would support that, other than they seemed high for what the client was receiving. We shared some examples of business models and Lee indicated they probably need to visit this topic more to become better informed on how financial planning business models are evolving. I’m concerned that the regulator is determining market rates through their biases or lack of understanding. FPA of Florida should follow up on providing them more education on business models. They reiterated that advisory contracts should be explicit in what is covered and what

the client pays. Suggested using two contracts for an engagement that includes investment advisory and financial planning services.

CFO Office

- Met with staff members to receive annual proclamation.



Pictured (L to R), Chris Draughon, CFP®, Tiffany Beard, CFP® Josephine Colacci, Deputy Director Elizabeth Boyd, Michael Zmistowski, Karen Nystrom, Ashley O’Kurley, CFP®