



2019 MDRT Global Conference e-Handout Material

Title:	Lessons from the Regulator: How to Keep Your Business Beyond Reproach
Speaker:	Brad Brain, CFP, CLU
Presentation Date:	Tuesday: September 3, 2019
Presentation Time:	1:30p.m. - 2:30p.m.
Session Room:	ICC - Grand Ballroom B2

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Perception: Drama and Intrigue!

CBC News Headline: Dec. 28, 2018

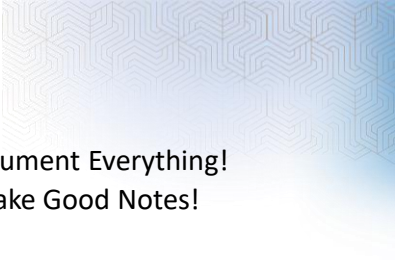
Ex-insurance agent made \$650K in
commission on fake claims,
investigation finds

Reality: Small Errors Escalate

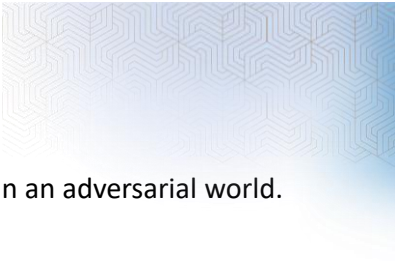
• Insurance Journal Headline: Dec. 5, 2016

Advisor Fined \$10,500
after client loses \$6.26

Lesson # 1




Document Everything!
Take Good Notes!



We live in an adversarial world.

The Irony!

• CTV News Headline: Nov. 27, 2018



Questrade agrees to pay \$2.9M to OSC
for acting contrary to public interest

Ethics Done Right!

Warren Buffett's testimony to the
United States Congress, Sept. 4, 1991

Shown with permission of C-SPAN, 2019



Lesson #2

Don't Do Anything That
You Don't Want to See
on the Front Page
of the Local Newspaper!

Know Your Limits!

• Insurance Journal Headline: Nov. 15, 2016

Clients told they could
double their money,
but lose about half a million

Lesson #3

Stay within your circle of competence
Stay within your registration

Practical Matters

• From Investment Industry Regulatory Organization of Canada Reports

Suitability
Conflict of Interest

Suitability

- Married couple was in their late 50s.
- They were preparing for retirement but still working.
- They were not knowledgeable about investments.
- Windfall of about a million dollars to invest.
- Their initial investment objectives documented as balanced.
- Upon the windfall, the advisor quickly updates their profile to increase the risk.

- The clients had signed those but without really understanding them.
- The advisor executes a very active trading strategy, basically trading penny stocks.
- The hearing panel found that the strategy was just not designed for unsophisticated investors who were preparing for retirement.
- The advisor was suspended for two years and was ordered to pay \$120,000 fine as well as costs of \$25,000.
- This was described by the panel as a classic suitability case, where the securities themselves being traded were just too risky for the clients.

Conflict of Interest #1

- Advisor was selling a relatively illiquid position in his own account while simultaneously recommending and purchasing it for his clients.
- He had his own reasons for selling, it was not market related.
- Still he did not inform his clients that he was selling what they were buying.
- Disclosure alone might have been adequate.
- Fined \$250,000, suspended for five years, and ordered to pay costs of \$75,000.

Conflict of Interest #2

- The advisor accepted undisclosed compensation when he signed up his clients for private placements.
- Some of the business was normal course.
- But he was also receiving significant payments from the issuers of the private placements that he did not disclose to his clients or to his firm.
- Even further, he took steps to conceal the payments by having them paid to his wife.
- Described as one of the clearest conflicts of interest that someone could be in.
- Had to repay the full amount of undisclosed compensation of \$669,500. He was also fined \$200,000 and required to pay costs of \$50,000.

Conflict of Interest

- Conflict of interest comes in all shapes and sizes, and it is a priority issue for regulators.
- Anything that puts the clients in harm's way needs to be eliminated.
- Some conflicts can be harmless, but still need to be disclosed.

Be Up Front

- Advisor's Edge Headline: January 29, 2018

**National Bank Fined \$700K
for disclosure failure**


Document Everything, Disclose Everything

• Insurance Journal Headline: Oct 26, 2018

MFDA fines advisor \$20,000

Check Your Ego

- Avoid Grandiose Job Titles
- Avoid Flimsy Credentials

Company Logo	Company Name	
Peace Region		
Insurance Expert		Phone: <input type="text"/>
Claims: <input type="text"/>		<input type="text"/>
<i>"For all that you do, we'll cover you!"</i>		

Lesson #4

Always put the client's interests first

- Suitability
- Conflict of Interest
- Disclosure
- Referral Arrangements
- Don't Hold Out as Something You are Not

The Optics are Important

- Advisor's Edge Headline: Oct.9, 2018

IIROC fines advisor \$60K
for accepting entertainment tickets

Pay attention to the rules

- You know all those silly little rules you are supposed to follow.
- Guess what, they are still rules. You need to follow them.
- You have no idea how many people miss simple deadlines, forget to notify when there are changes, don't fill out a form accurately, etc.
- These are all the little things that people should know better, and they get taken for granted.

Reason Why Letter

- What is insurance? What types of insurance are there? How can your client benefit from insurance?
- Identify the owner and the insured.
- Determine insurance needs and client's understanding.
- Discuss intricacies of related insurance policies.
- What product do you recommend? What are the client's insights on this product? What product will the client be applying for?
- Other notes.
- Dated signatures.

MDRT Code of Ethics

- Always place the best interests of their clients above their own direct or indirect interests.
- Maintain the highest standards of professional competence and give the best possible advice to clients by seeking to maintain and improve professional knowledge, skills and competence.
- Hold in strictest confidence, and consider as privileged, all business and personal information pertaining to their clients' affairs.
- Make full and adequate disclosure of all facts necessary to enable clients to make informed decisions.
- Maintain personal conduct that will reflect favorably on the insurance and financial services profession and MDRT.
- Determine that any replacement of an insurance or financial product must be beneficial for the client.
- Abide by and conform to all provisions of the laws and regulations in the jurisdictions in which they do business.

Lessons From the Regulator

- Document everything.
- Disclose everything.
- Avoid optics of compensation motivated.
- Act within license & act within competence.
- Ensure advice is suitable for unique client situations.
- Avoid conflicts of interest. If unavoidable then document.
- Avoid grandiose titles.
- Pay attention to the rules.
- Don't do anything you don't want to see on the front page of your local newspaper.
