



A Simple Summary

J.W. Cole Advisors – What is our Fiduciary Duty?

A brief history lesson

The concepts of a trust and a fiduciary go back to medieval England during the years of the Crusades. Before leaving their estates for the Crusades, English knights left their property and other assets "in trust" with trusted friends (usually members of the church or other lords) – the fiduciaries - for the benefit of the knights' heirs should they not return.

The SEC's Investment Adviser Duty

Today, an investment adviser fiduciary may simply be defined as one who continually acts in the client's best interest. Pursuant to SEC requirements, investment adviser fiduciaries have two main duties: a duty of loyalty and a duty of care.

- The "duty of loyalty" requires that fiduciaries act exclusively and continuously in the best interest of their clients, rather than in their own interest. Thus, fiduciaries must not derive any direct or indirect profit from their position at the expense of their clients and must avoid potential conflicts of interest.
- The "duty of care" requires that fiduciaries perform their functions with a high level of competence and thoroughness in accordance with industry standards. This requires the investment adviser fiduciary to understand each client's unique circumstances and goals, as well as the products and services the fiduciary recommends, and provide ongoing advice that is, consistent with those client needs. Fiduciaries are not order takers.

Together, these two duties require investment adviser fiduciaries to adhere to the following regulatory standards:

- (1) the duty at all times to place the interests of you, the client first;
- (2) the duty to have a reasonable basis for investment advice provided to you;
- (4) the duty to make investment decisions consistent with any of our mutually agreed upon objectives, strategies, policies, guidelines, and restrictions. To that end, investment advice must be tailored to your individual circumstances and objectives.
- (5) the duty to treat you fairly. Similarly situated clients should be charged in a relatively consistent manner.
- (6) the duty to make full and fair disclosure to you, of all material facts about the advisory relationship, particularly regarding conflicts of interest; and
- (7) the duty to respect the confidentiality of your information.

Importantly, unlike a broker-dealer duty which is “point-in-time” or “transactional” in nature, as a fiduciary I must act in your best interest not only when I make a recommendation or give you advice, but continually throughout the course of our relationship.

So, what are some of J.W. Cole Advisors’ expectations and best practices?

- I am expected to operate my investment advisory practice responsibly and ethically, including ensuring my business structure is appropriate to protect your best interest.
- I am expected to provide ongoing investment advice to you.
- Due to the ongoing nature, I should periodically meet with you.
- Explain my investment approach and philosophy to you and explain any changes in my approach.
- My compensation should be fair, reasonable, and I will fully disclose my method of compensation to you.
- Understand each your individual objectives, goals, and financial circumstances.
- Know the products and services I recommend, perform adequate due diligence and document.
- Tailor my investment advice, as well as the products and services I recommend, to your individual needs.
- Regularly communicate with you (in-person, e-mail, video, etc.) to continually understand your circumstances, financial situation, and goals.
- Reasonably ensure the account and the securities in the account remain appropriate for you; when applicable provide updated advice or make changes consistent with your best interest.
- And finally, any oral and written statements I make, including those made to you, prospective clients, and their representatives, or the media, will be accurate, balanced and never misleading.

As always, we are here to help, guide and assist you with any questions or issues. Please feel free to call me any time.