**The Committee for the Fiduciary Standard**

PO Box 3325

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Committee: NAIFA

“Hugely Misunderstands”

Fiduciary Requirements of RIAs

Likens NAIFA’s Misunderstanding

to Investors’ Confusion About Brokers and Advisers

May 19, 2011

Statement of Knut A. Rostad for the Committee for the Fiduciary Standard on NAIFA’s rendition of what “fiduciary” means to the RIA:

“Last week NAIFA issued a statement on its view of the differences between the suitability and the fiduciary standards. NAIFA President Terry Headley asserted that there is no evidence to support the claim that the fiduciary standard provides consumers superior protection compared to the suitability standard. In part, Headley argued that the fiduciary standard is actually weaker because it is “process-oriented, subjective and retrospective.”

**What is Required of an Investment Adviser – and Generally not of a Broker?**

From these remarks, it appears NAIFA hugely misunderstands what the fiduciary standard requires as compared to the minimum requirements (which many brokers do exceed) of the suitability standard. Here are a few examples of what’s required of investment advisers, but not of brokers:

        only recommend products in the client’s best interest

        act with prudence

        disclose all material facts (i.e., disciplinary record)

        disclose all fees, incentives, compensation, and investment expenses

        control investment expenses, and

        avoid all material conflicts.

        In the case a conflict is unavoidable, the conflict must be fully disclosed.

 To proceed with a transaction, the adviser must then also obtain informed

 consent, and then reaffirm that proceeding is in the client’s best interest.

These requirements clearly differentiate advisers from brokers. The bottom line: The investment adviser is required to put clients’ interests first; the registered rep is generally permitted to put his/her interests and the firm’s interests first, as long as the advice, product(s) sold and transaction are not unsuitable.

In light of these sharp differences – along with differences evident in case law and affirmed in regulatory opinion from state and federal regulators – NAIFA’s huge misunderstanding of fiduciary duties is quite startling. This misunderstanding parallels the huge misunderstandings held by many investors who believe, incorrectly, that their brokers are generally required to put their interests first.”

 The Committee’s Steering Group members are recognized leaders in the

investment profession:

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