

A firm's belief in consumer education

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Jim Suits and Kathy Harrison-Suits of Tacoma's Summit Capital Advisors call themselves "partners in life and business."

Jim is a certified financial planner and an accredited asset management specialist. Kathy is president of the Washington State Society of Enrolled Agents, and as an enrolled agent she is licensed by the Department of Treasury to prepare tax returns and represent taxpayers before the Internal Revenue Service.

She says there are some 400 enrolled agents in the state, and they serve "individuals who need a high level of expertise" with tax-related matters.

Both partners served in the Air Force, working in accounting and finance - Jim for 23 years and Kathy for 15.

Jim says his typical client is retired or about to retire and has a minimum of \$300,000 to invest. He is what is commonly known as a "fee only" adviser - which means he does not sell financial products such as stocks, annuities or insurance. He advises clients in several principal financial areas including investments, insurance, tax planning, and estate and retirement management. His minimum retainer is \$3,500, and he considers himself a fiduciary for his clients' interests - which means he has no other interest other than their financial success.

His recent discussion with The News Tribune concerns the fiduciary relationship and a March 30 decision by the District of Columbia Court of Appeals. The decision might impact broker-dealers who offer advice to their clients, and, said the publication Investment News, could mean that "billions of dollars in fee-based brokerage accounts will have to be moved into traditional commission accounts or into advisory accounts."

Earlier this month, the global law firm Morgan Lewis issued an alert to clients saying that depending on actions by the Securities and Exchange Commission, which can appeal the decision, "broker-dealers should reexamine their fee-based brokerage programs, as well as their financial planning business, discretionary practices and discount brokerage lines in light of the court's rulings."

What was the decision all about?

Jim Suits: It is a ruling that restores the original restrictions against brokers from acting as financial advisers, working on a fee basis, without actually being a registered investment adviser. It reestablishes provisions that differentiate brokers from advisers. If you charge a fee for advice, you're acting as a financial adviser, not a broker, and must be registered as such.

What's the difference between how brokers and registered advisers are regulated? Aren't they the same?

If brokers recommend a mutual fund that is owned and operated by their firm, and which pays them an extra commission, they have to make sure this is disclosed. Registered investment advisers are held to fiduciary standard, which basically means that they have to put the customers' interests ahead of their own and the company they work for.

You believe that brokerage firms are fighting against having to act as fiduciaries.

If brokerage firms were held to a fiduciary standard, all of their recommendations would be examined in light of whether they really were best for the customer. Every in-house fund recommendation, every IPO recommendation, every piece of advice regarding insurance, annuities or stocks would have to reflect what benefits the customer, not what benefits the company's bottom line.

Why is the ruling important to investors?

It restores the brokers' original role of selling securities - stocks, bonds, mutual funds, etc. - and insurance for a commission. With the ruling, investors will know if they are working with a broker or an adviser. When an investor receives advice, it makes perfect sense that it should be conflict-free and in their best interest.

Perhaps readers still aren't clear about the difference between a broker and an adviser.

Brokers recommend securities and products to their customers to buy from them. It is a transaction-oriented relationship. Brokers are required to make "suitable" recommendations. Their customers decide whether to buy or sell and assume most of the responsibility for the transaction.

Advisers do not sell anything other than their services, and this is on a fee basis. Advisers have a legal obligation to put the client first and always act in the client's best interest and remain responsible for their advice throughout the relationship, and beyond.

Brokers are not advisers. The legal term is "registered representative."

But they are licensed, and trained, and there is regulatory oversight. Your interest is that of an adviser.

I'm interested in consumers being educated so they can make a clear choice. A lot of people want someone to execute trades for them. They may not necessarily want the higher level of advisory services. I'm not passionate against broker-dealers. I have an ax to grind against people who misrepresent themselves, knowingly or unknowingly. All I'm saying is this: The air needs to be cleared about the different roles different professionals fill.

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Jim Suits

Business: President of Summit Capital Advisors of Tacoma. Among other accomplishments, Suits is a certified financial planner and an accredited asset management specialist.

Issue: A recent court decision that goes against Securities and Exchange Commission guidance concerning brokers who deal in financial products.

Continuing coverage: The News Tribune will update the court case as it progresses. Let us know what you think of this issue. Comment on this story at www.thenewstribune.com or write c.r.roberts@thenewstribune.com.

[Illustration]

Caption: Peter Haley; COLOR PHOTO/Peter Haley/The News Tribune: "If you charge a fee for advice, you're acting as a financial adviser . . . and must be registered as such," says Jim Suits, president of Summit Capital Advisors. He and his wife and company vice-president, Kathy Harrison-Suits, talk about new regulation of advisers and brokers that should help consumers see the difference.

Credit: The News Tribune

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