

# ADVISOR POST



## COMMENT

# It's not like selling a new suit

Financial advisors have a special duty of care for clients

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Ask advisors in the financial, securities and insurance industry, particularly when paid strictly on commission, what they sell and most will say: "Securities and insurance products." But I beg to differ.

Advisors sell professional advice. Lawyers, doctors and accountants are professionals, but so are financial and investment advisors (including insurance agents) who sell investment products. I didn't make this up. The courts insist that advisors are held to this standard.

Professional advisors are different from salespeople who sell suits in a clothing store. A salesperson has no legal or regulatory obligation whatsoever to ask me what I do for a living (lawyer), whether I travel and need it to be in a suitcase for several hours (coaching/training advisors across Canada), what my budget is (I always buy half price, off the sale rack), what colour I prefer (I am a klutz so something I can drop food and drink on will not show), whether dry cleaning is a problem (not for me), whether pantsuits are better than skirt suits (for court, I like pants). None of that matters to the salesperson, and he has absolutely no obligation to ask.

What about professional advisors? Advisors have a legal and regulatory obligation to know each of their clients and ensure that each product suits the client's needs and objectives. You might jump all over this part of my argument and say: "Ah-ha! Advisors are selling products!" Yes, but clients are consulting with advisors to ascertain what is truly appropriate (suitable) and what will meet their particular needs (objectives). Otherwise, to the discount broker, relieved

from suitability obligations pursuant to IDA Policy 9, the client may go to purchase mutual funds and securities — oops, but not insurance products.

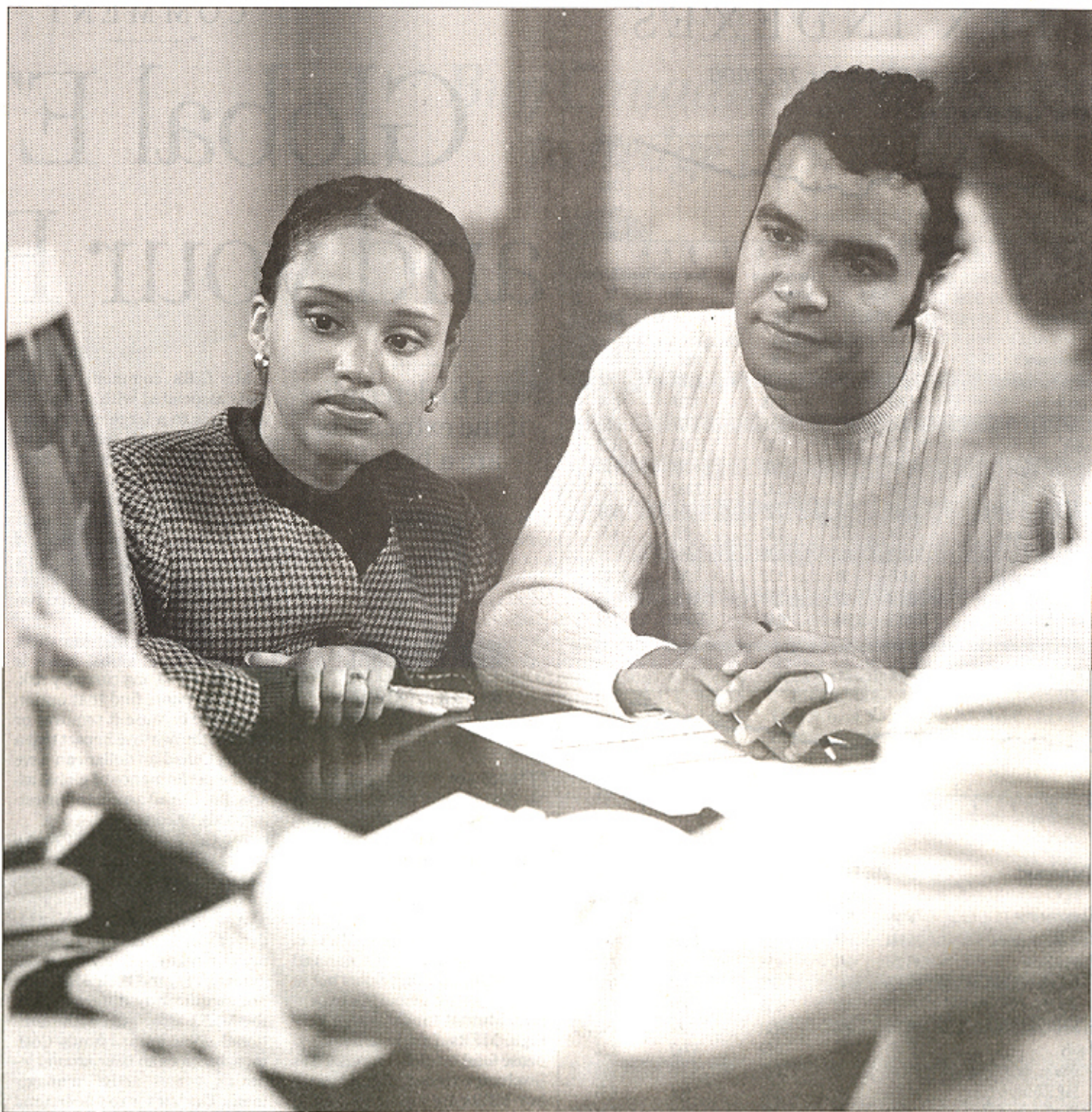
Advisors are charged with the obligation to know their clients. Some advisors insist this obligation begins and ends with the completion of the KYC form or insurance application. Wrong again! In fact, advisors must do much more than simply complete forms. They must look beyond the questions set out in the form and understand what lies beyond basic, and sometimes superficial, answers.

If an advisor asks a client what her time horizon is and the client says she hopes not to touch the money for "a long time," the advisor cannot simply check a box indicating the client's time horizon exceeds five years. One year later, when the client calls the advisor to inform him she intends to buy a house and needs to liquidate, the advisor will have to break the news — perhaps for the first time — that she will be saddled with fees.

To avoid such a scenario, the advisor collecting such essential client information to complete the KYC should have asked whether she intended to remain in an apartment or whether she might see herself buying someday. If the client was happy in her apartment and didn't expect to move for "some period," the advisor would then ask the next logical question: "When you say 'some period,' what does that mean?" You must learn each client's essential facts sufficiently well to support each answer on the form with concrete information.

If you do not have a paper trail that supports the conclusions in the KYC form and the value of the account diminishes, guess whom the client blames? Your regulator may receive a complaint, and you and your dealer could face legal action. The advisor who can support conclusions with concrete evidence will avoid (what feels like) a lifetime of grief.

If the advisor canvassed each issue with the client and took notes reflecting her answers,



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Financial advisors have legal and regulatory obligations to understand their clients' particular needs.

while explaining DSC, or other fees that might occur with premature redemption or liquidation, then that client will not be surprised. If she denies ever having received such explanation, the advisor's notes are produced as evidence. The risks faced by the advisor are different from the salesperson faced with a customer demanding money back on the basis that the sales clerk never pointed out the "dry cleaning only" tag.

Protect your licence, reputation and bottom line by fulfilling your professional duties and maintaining a paper trail to prove it.

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