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Client Services: *Here's something new: consultants who take a minority position in a handful of advisory firms, and use their expertise to build value and profitability for their own ownership stake.* ....page 15

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The App for Growth

Synopsis: ***Want to get up-to-the-minute insights into every aspect of building a planning/wealth management business? Join the Academy.***

Takeaways: ***Avoid toxic positivity, receive a sample org chart with detailed job descriptions, and learn how to build trust with prospects and clients more quickly.***

Whenever I talk with the prominent consultants in the financial planning space, and ask them about their target market, the answer is always the same. One of them, speaking for many (though maybe a bit more colorfully) described the firms she works with as *"Big honkin' wealth management firms with more than 2 billion in AUM."*

And why not? Those are the firms with the revenue capacity to pay generous consulting fees.

But… What about smaller firms, and firms that don't want to delegate their strategic decisions to a consultant, but would prefer to gather information about best management practices on their own? Where do they turn for useful business advice?

Angie Herbers, of Herbers & Co., is one of the leading consultants that advisory firms hire to help them manage their way through a variety of "growth barriers." In a previous article in this newsletter (and later in my book, *The New Profession*) she identified several stages where a firm will typically encounter specific challenges that seem like barriers: moving above $350,000

EARLY WARNING

By all accounts, the Riskalyze conference (700 attendees) went off smoothly—and, most importantly, safely, which suggests that in-person meetings can proceed as long as there are precautions in place. The upcoming NAPFA Fall conference in Boston (October 13-16) and the Insider's Forum conference in Nashville, TN (October 6-8) are the only major advisor-oriented meetings on deck, until the MarketCounsel Summit in Miami (December 6-9). If these events come off safely, we may see a full spring schedule, with other conference promoters benefiting from the safety protocol experiences of the meetings that came before them.

At the Insider's Forum, the closing keynote with Dani Fava has been replaced by a panel discussion about the best tech, practice management and marketing insights from around the world, featuring Joel Bruckenstein of T3, Kate Holmes of Innovating Advice and Karen Denise of CAPTRUST—with Bob Veres as moderator. The Insider's Forum conference is still accepting registrations from wait-and-see attendees, a few at a time.

Registration link: *https://www.insidersforum.com/attendee-registration*, $150 discount for Inside Information subscribers with the discount code: 2021INSIDER.

in revenues (where a one-person shop has to start scaling client service and strategically hiring staff); breaching $1.2 million in revenues (where the firm has to create an organizational structure, career paths and a compensation plan); and then bouncing against the $3.3 million revenue barrier (where the challenge is adding quality staff fast enough to keep up with growth, and at the same time streamlining the sales process).

In the thought leadership side of her consulting career, Herbers has added to the professional lexicon such concepts as "diamond teams" (a structural shift in how you organize your advisor teams to accelerate the training and growth of younger advisors), and the "P4 Culture" as a way of creating a healthy and productive staff environment (*rb.gy/3yhhk8*).

But like many of the advisors she consults with, as she became more successful and well-known, Herbers' clients became increasingly upscale, and fewer engagements were addressing those early growth barriers. Moreover, she was fielding calls from advisors who didn't really need a full engagement, but did want advice on specific issues and challenges.

Unlike the other prominent consultants, Herbers has found a way to provide broader access to her practice management insights. The solution is a phone app called Herbers & Co. Academy, which provides a constantly-updated menu of video presentations on different topics. Advisors will also find tools and templates that Herbers has developed for her traditional consulting clients. "It's a digital learning experience," Herbers explains. "We wanted to get more information out to more advisors in a way that would help them more than just attending a conference presentation or reading a white paper."

This, she adds, represented a surprising challenge. It's a big shift from telling firms what you think they should do to teaching them the principles behind your advice.

Growth content

Advisors can join the Academy for $89 a month. You start by downloading the Herbers & Co. app from the Apple or Google App stores, which gives you access to all the archived videos, the tools and templates, and the ability to participate in membership discussions. In the first week after launch, the Academy had attracted 150 advisor participants; in the two weeks since then, the number has grown to 212.

"The biggest complaint we've been getting about the app, tools, etc. is that we were posting too much information," says Herbers. "I never dreamed that would be a complaint, but we've slowed down on posting."

What, exactly, does the content cover? An early version of the Academy offered singular videos with a very intuitive organizational structure. Herbers divides the management of a planning/wealth management business into eight components. (See graphic, upper left.) Each of the original videos provided insight into one of those colored triangles.

That approach was abandoned when several things became obvious: first, no one video is going to suffice to address all the challenges embedded in "growth' or "operations," and especially not in isolation.

The other problem is that

circumstances are constantly changing, and Herbers was fielding questions about specific issues that were arising among her consulting clients. The world was not standing still, and neither was Herbers' advice. This has led to a broader (and more timely) content scheme of videos on new topics as they arise.

Among the most recent videos is one on building hybrid (and happy employee) cultures—which offers advice for firms that have been acquiring or acquired, on how to navigate the inevitable disparities in culture.

Another is an explanation of how to apply the P4 white paper to a real world office environment—whose goal is to allow staff members to manage their own careers and encourage them to become self-led, which greatly reduces the administrative burden on the company founder. This comes with an embedded tool that lists the ten factors that are associated with great employees. A separate tool provides a detailed questionnaire that allows any advisory firm to evaluate each employee on the key components of excellence and career potential: leadership skills, willingness to take responsibility for getting results, intuition and decision-making ability, teamwork, interpersonal communication skills, ability to focus on client needs, communication skills, time management and organization skills.

Scrolling down, you find a video that explains how to track corporate financial ratios to ensure that you maintain a profitable practice. A 'rainmaker vs. rainmarketer' video helps the former transition to the latter by focusing on creating content for clients (to generate leads) and building content around the firm's unique expertise that can be send out to prospects. What's interesting is the recommendation that the content sent to clients be different from what prospects would receive—and the reasons why.

Want to follow this advice? The app contains a content calendar tool that allows advisors to organize the delivery of three different types of client communications (which are explained in the video), and, once those communications have been built, the firm can start to layer prospect communications into the calendar.

The Academy app includes a template tool that walks the company founder through the steps to build an effective compensation structure, plus a video on mastering fixed-fee retainer models, plus a template agenda for team offsite meetings.

A template tool walks the company founder through the steps to build an effective compensation structure. Another is a template agenda for team offsite meetings.

Advisory firms that are bumping against that second growth barrier, and trying to figure out who to hire and in what sequence, will find a useful white paper that defines job descriptions and helps company founders build out a template organizational chart. The jobs or role descriptions are broken down into different departments: advisory (with qualifications and job descriptions for the senior advisor, lead advisor and associate advisor); client service and operations (operations manager, client service specialist, receptionist); financial planning department (director of financial planning and paraplanner); and an investment management department (portfolio manager, portfolio technical specialist, research analyst).

This tool offers two

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components for each position: a list of ideal attributes (to help with hiring and promoting) and typical duties (to create the actual job descriptions and more clearly define roles in the office). Picking two at random: The lead advisor should have a designation and over five years of experience, and be fluent enough in technical planning concepts to be able to solve complex client planning issues.

The Academy content will be easier to navigate, as the video tutorials and tools and templates will be organized around the practice management diamond.

That person's job functions would include conducting ongoing client meetings, closing initial prospect meetings, solving complicated planning challenging, serving on the investment management committee, participating in and coordinating marketing efforts and managing and coordinating all associate planner activities and career development.

A client services specialist, working under the supervision of an operations manager, should have mature customer relationship skills, excellent communication abilities and a basic understanding of technical planning and investment processes and procedures. This person should be detail-oriented when handling paperwork.

Job functions: assist in answering non-advisory client questions, process forms and applications, generate month-end and year-end client reports, maintain the CRM software and its various sorting, reporting and scheduling functions, track client service issues and handle non-advisory tasks for the advisor professionals.

All of this is likely to be easier to navigate in the future. In what has to be regarded as a coup, Herbers recently hired Sonya (Britt) Lutter, a Ph.D. and CFP who ran the department of human sciences at Kansas State University, and has expertise in effective communication techniques.

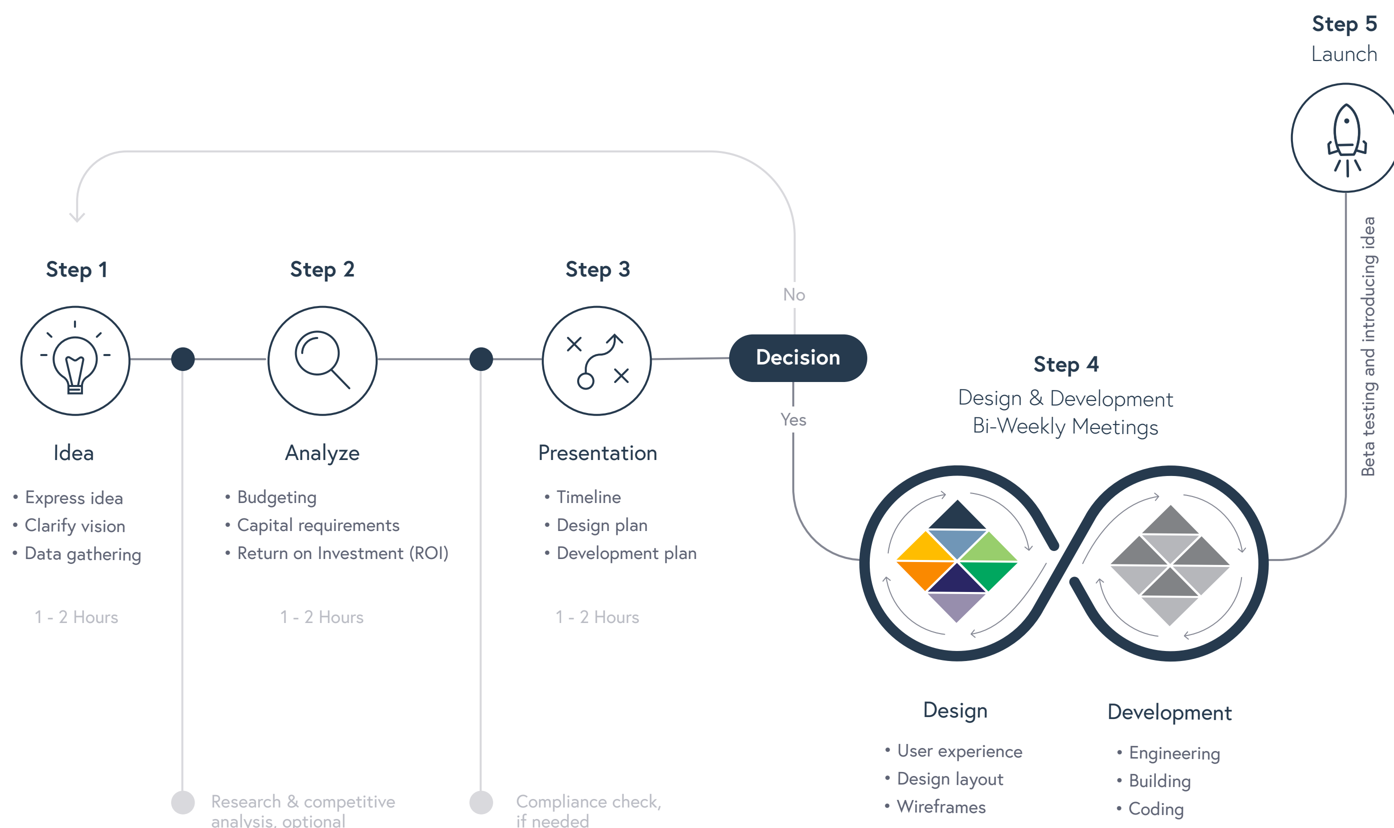
Lutter's first assignment: to launch FastTrack, which will provide a sequence of videos designed to take all members of the Academy through each of the eight areas of the diamond: enhancing leadership mindsets, developing growth mindsets and so forth around the diamond. In the future, all the videos and templates will be arranged according to which aspect of business/practice management they relate to, allow advisors to dive directly into any area where they're experiencing challenges.

Popular content

I asked Herbers about some of the most popular content on the Academy app, and she pointed immediately to "client service vs. client trust"—which outlines a process where advisors can more quickly build trust with prospects—and how to increase their trust factor with clients early in the relationship. Another video that has been popular lately outlines how to navigate the cultural differences after mergers or acquisitions. During the pandemic, many advisory firms have viewed the video that relates to a growing problem of 'toxic positivity.'

Come again? "Toxic positivity is when you're telling people that they should be positive whenever they raise their hands and complain or point out something that doesn't feel right," Herbers explains. "We saw a lot of this in the pandemic, which was stressful for a lot of people who went through isolation and faced a lot of challenges."

How does it manifest? "If an employee calls you up and says, *I'm mad or I'm upset or I'm frustrated*, and the employer says, *no, you need to think positive*, or: *tell me the five things you are happy about today*," Herbers explains, "that employer is basically saying your emotions are wrong. That employer is shaming you for feeling negative emotions. We teach is that all emotions are welcome," she adds. "The best way to get the best out of your people is to say: *I hear you. That really sucks. Tell me more about that.* If you allow those negative emotions to come out, as opposed to telling somebody to be positive and shaming them for not being positive, then you actually transform it to the positive. Toxic positivity is when people say you need to think positive no matter



what the circumstances; but our experience is that when you deny negative emotions, you actually create more negativity."

The day before our interview, Herbers had recorded a video that would help advisors tame the innovation process. "A lot of people are talking about innovation, and so we created a way to examine your options in a systematic way, and a process to incorporate innovation into your business life," Herbers explains. (See graphic, above.) "Tomorrow, we're posting a video on two trends that you can innovate to respond to."

Trending challenges

As mentioned earlier, much of the Academy content comes out of recent challenges that Herbers and her team are seeing in the firms that have hired them for more traditional consulting arrangements. When you're hearing the challenges facing hundreds of advisory firms, it allows you to put your finger on the profession's pulse in a unique way. What are some of the newer trends that Herbers is encountering in advisor businesses?

"Lately, we're seeing a log of service advisors looking to start their own businesses," she says. "They're saying, *we're doing the work of servicing the clients. Advisory firm valuations have gone through the roof, and we aren't sharing in the growth of the valuation because we're not partners. So why not start our own firm?*"

Herbers says that it typically costs an advisor roughly $10,000 to get a new firm off the ground. "Most of that cost is registration and compliance," she says. "Really, all you need to get going is a computer and your brain. With the popularity of retainer-based models, you can start giving advice to your friends on a retainer basis. By the time you get to 10-20 clients," she adds, "you have the cash flow to layer on portfolio management software, and some of those clients will want you to start managing their assets—and you're off and running."

She recalls a LinkedIn post where somebody asked how many

client assets an advisor would need to start his/her own advisory firm. "Hundreds of people replied back that the answer was $0," says Herbers. "If you get ten clients and produce $100,000 a year in revenue, you have a firm that's worth roughly $200,000 in valuation—and all you have to do is keep building it."

Herbers is getting calls almost weekly to help independent advisory firms create their own unique digital client experience. Some are experiencing a 23% increase in capacity.

Another trend is retention packages. "So many firms are being acquired these days," says Herbers, "that retention of key staff is getting a lot more attention than it ever has. It usually takes the form of a bonus that will be paid if they're still with the firm after three years," she adds. "It can be in the form of a flat sum of money, or what you're producing in revenue, or potentially stock options or phantom stock or synthetic equity. In some firms, it can be a path to partnership. I've seen more retention packages in the last year and a half," she adds, "than in the first 20 years of my career combined."

Most surprisingly, Herbers is seeing a trend toward advisory firms creating their own proprietary technology.

"We're getting calls almost weekly to help independent firms create their unique digital client experience," she says. "It can be around one specific specialty, such as stock options or liquidity events, or for employee benefits, an insurance review, or around a more comprehensive look at financial planning. They want something that is more client-interactive, that will create a client experience that is different and unique."

The word "unique" is key here. "If you're using off-the-shelf industry technology," Herbers explains, "then it's possible that a client could go to another firm and have the same experience that you're providing." If the firm is careful about designing the tech it wants before going to a developer, the cost of developing a unique experience can be relatively modest, she adds; well under five figures.

What is the return on investment? "Let's say a firm can work with 125 clients in the wealth management space," says Herbers. "Instead of trying to hire, they can spend less than what that hire would cost in a year on new proprietary tech, and gain a 23% increase in capacity." She says that firms that have developed their own proprietary technology can command higher valuations.

"Most often, the premise is: *how do we make clients feel like they're more in control of the process; how can we help clients become more engaged in their decision-making?*" says Herbers. "We've literally filtered through 500-600 ideas on how to make the client experience amazing, but the bottom line is to increase client engagement and provide a unique user experience."

Segmented planning

A firm that masters its internal management, creates better job descriptions, moves from rainmaking to rainmarketing and creates a unique tech experience is going to fundamentally change its relationship with its clients and the community they come from. Herbers says that as she sees firms evolve, they are also shifting their data-gathering process from the overwhelming 'let's address everything up-front,' to a one-issue-at-a-time approach to planning—and at the same time shifting from quarterly or annual meetings to as-needed conversations, often virtually.

"We're seeing a lot more segmented planning that leads to holistic planning," Herbers explains. "The proprietary tech speeds up the data-gathering process to the point where it will automatically send a reminder to the client to send in their tax return or update their will. It takes the advisor out of the loop, and at the same time increases the experience for the client. Then the advisor can start replacing the annual meeting with on-demand service," she adds, "where, if clients needs anything, they can go into the tech platform and run their own scenarios, and then the advisor

sees that and sends a message: *hey, I see you're running a scenario on tax planning. Let's talk about what you need, specifically*."

Through Academy and her consulting, Herbers is obviously seeing a charmed subset of the total marketplace: the relatively small number of advisors who are looking for ways to improve their management skills and their client offerings.

But those also happen to be the firms that will drive change in the profession. The new Academy training program, soon to be energized by Lutter's input, is going to democratize practice management advice, allowing smaller firms to improve their marketing efforts, gain insights into better ways to facilitate staff development, and become more in tune with their clients' needs on a day-to-day, year-by-year basis.

The advice and consulting, leveraged through this new app, is already reaching a wider audience of advisory firms who have been priced out of the market for consultants—and they're forming a community that now routinely trades ideas among themselves, which represents a new networking opportunity.

"A lot of these people go to conferences to get new business management ideas," says Herbers, "because there really isn't anywhere else to go. I think of Herbers & Co. Academy as the conference that never ends," she adds, "delivered through your phone, in bite-sized pieces. It gives us a real opportunity to spread value through education." ■

Taking Estate Planning In-House

Synopsis: ***The Helios outsource service makes it more likely that reluctant clients will finally get their estate planning house in order.***

Takeaways: ***Send clients the questions beforehand, avoid situations where there is likelihood of lawsuits by heirs, and beware of crossing the line and giving legal advice.***

Every year, when I attend national conferences and seek out the technical sessions, the most glaring omission on the schedule is estate planning. I'm not talking about planning for those infrequent clients whose net worth puts them over the exemption limit. Couples with more than $23 million to pass on to their heirs have access to top-notch legal experts skilled at drafting of intentionally-defective grantor trusts, creating split-dollar agreements and helping create loans with exactly the right interest rate that are forgivable at death.

> ***Estate planning for unwealthy clients tends to live in a darkened corner of the financial planning service offer.***

What's missing are sessions about the more mundane issues of drafting a will or a revocable trust (and funding the trust), creating powers of attorney in case of incapacity, and getting the medical power of attorney drafted and in the hands of trusted family members. The most estate planning information I typically see in conference presentations is an aside comment that you should urge clients to check the beneficiary designations on their IRA and 401(k) documents.

There are, of course, reasons why 'estate planning for the rest of us' lives in a darkened corner of the financial planning service offer. First, most advisors don't have the legal expertise to draft the documents, and even if they did, they would be crossing a legal line and practicing law. Beyond that, there might be an awkward relationship with the local estate attorney who, because so few Americans have to worry about estate taxes these days, now does a bit of financial planning on the side.

Do you really want to hand

the client over to somebody who might ask to see the clients' entire financial picture, and then second-guess the rest of your advice?

The ideal solution would be a white-labeled online estate planning outsource service that is reasonably-priced, has solid template documents, calls in attorneys as needed, and has secured legal expertise in every state where your clients might happen to live.

This hypothetical solution actually exists. It's called Helios Integrated Planning (*https://heliosplans.com/advisor-services/online-estate-planning*).

As a company, Helios started life as an outsource chief investment officer, first for Ameriprise-affiliated planners, and later for a broader segment of the advisor population. In 2018, Helios Quantitative Research was looking for a way to offer outsource services in other areas of advisory businesses. A sister company, Helios Integrated Planning, was born in September, 2019 to be an outsource chief estate planning officer—a hybrid of online software, service team with template documents and, if needed, relationships with attorneys in the home office and, currently, in 49 states. (North Carolina is pending.)

Roughly 1,000 advisory firms now refer clients to Helios. "We're doing hundreds of estate plans every month, and the network is growing by about 75 firms a month, that are creating accounts with us," says Matt Morris, Helios's vice president of sales. The firm recently signed an affinity agreement with XY Planning Network, and Thrivent Advisor Network has a formal arrangement.

Morris says that the key feature, which everything in Helios is built around, is making the advisor the quarterback of the estate planning process—and, indeed, Helios is only available to financial planners; there is no direct-to-consumer service. "We believe in the human component," Morris explains, "where the relationship with the trusted advisor is what's going to get people motivated to get their estate plans done."

Of course, that requires the advisor to have a certain minimal level of expertise. An advisory firm can sign up with Helios, for free, and have immediate access to a variety of training videos which not only explain basics like the difference between wills and revocable trusts, but also how to walk the line to avoid the unauthorized practice of law. (For most advisors, this will be a review.)

As additional resources, advisors can go to the Helios website for sample email messages to clients who might be interested in basic estate planning (or a review of their existing plan), website language, ADV update considerations and, more recently, a marketing kit that offers resources that advisors can use to announce their services on social media.

Getting started

When advisors create a Helios account, they are required to watch four videos that address the unauthorized practice of law, and how to avoid document provisions that are likely to create thorny legal issues in the future, and best practices. "They have to attest that they've watched those before they can create their first plan for a client," says Morris.

The videos also offer a walk-through of the estate planning software, and advisors can look over a sample client agreement, which spells out what Helios does in the background and how the advisor is managing the process. The first thing you learn is that Helios is appropriate for the client who is not involved in a complicated estate plan—that is, the 95% of individuals whose estate planning consists of several basic documents. The cost is $550 per client for a revocable trust, power of attorney, health care proxy and HIPAA authorization. If the client doesn't need the trust, and wants a will instead, the cost is $350. If the advisory firm wants Helios to file the client's residence deed to the revocable trust, that costs an extra $250.

"We only get paid when everything is submitted to create the documents for the clients," says Morris. "There are no ongoing subscription fees to be affiliated with Helios."

Advisors can have the clients pay these fees directly to Helios. But in most cases, advisors will pay the fees and charge clients directly for the services via AUM or a separate fee.

"The other two features we have is: we will review any advisory client's existing estate plan," says Morris. "So if they had the estate plan documents prepared in 2012, and they haven't thought about it since, we equip the advisor to upload a client's existing estate plan and, for $125, we will give them a one-page summary of all the details in that plan, and the questions to ask the client, so that the client can verify, *this is still what I want*. Or: *I forgot that I named that person as my trustee; we need to update this*."

So far, about 30% of client reviews result in some kind of update to the plan.

Data gathering

The software kicks off the estate planning process. In most cases, the advisor and client will log into Helios and go through a questionnaire together—and this can be in the office or, these days, remotely on a shared log-in. The questionnaire screen is white-labeled to the advisory firm, and all the data is encrypted on the cloud.

The questionnaire starts with the client answering a number of potentially disqualifying questions. (See above.)

Disqualifying? Remember that the Helios service is designed for uncomplicated estate plans. So one question is: *Does the client net worth exceed $10 million (single) or $20 million (joint)?* If the answer is yes, then Helios is not appropriate, and the client should go to a local estate planning attorney.

Does the client anticipate disinheriting any natural born or legally-adopted children? If so, Helios won't create the plan, and recommends that the advisor delegate the estate planning work to an attorney. Why? "Our attorneys say that these are among the most likely scenarios for there to be litigation by the heirs," Morris explains. "Our recommendation is that the advisor stay as far away from that circumstance as possible."

Does the client have a mental

capacity issue? Are the clients acting of their own free will? Is there a history of family litigation with trusts and estates? Does the client plan to give money to a non-family member who also provides care for the client?

What's that last item about? "I'm sure you've seen the movies," says Morris. "The older guy wants his nurse to inherit his estate, and the other beneficiaries don't tend to appreciate it. The goal here," he adds, "is to weed out 99.99% of the reasons that estate plans get contested. We recommend that advisors stay away from those."

Assuming that the disqualifying questions are answered in a satisfactory way, the process moves to the family information page. "The best practice is for the advisor to have an administrative person on the team populate the family information that they already have access to in their CRM," says Morris, "so typically the client is validating this information and moving on."

As the software moves into estate planning issues, for every question, there is a link that provides an explanation of why this information is relevant. *Why does the system need to know the names of the kids?* (They need to be named on the documents.) *Why is it important to have more than one person named on the medical power of attorney?* And so forth…

Then the process moves to a page that will require some thought. "The purpose here is to have the clients answer five core questions," says Morris: "*Who are my beneficiaries? How would I like the distributions to go? Who would be my trustee? Who would be my healthcare agents and guardians? Who would hold my power of attorney?* We're hearing that this is about a 20-30 minute process to walk a client through this session," he adds. "Most commonly, there are equal distributions to each child. Or they can come in with a custom distribution schedule."

Specific gifts can be listed on this page, and this is where the client would name a charity to receive distributions from the estate. The health care directive includes check-boxes for the do-not-resuscitate, end-of-life decisions, and of course there are blank fields that clients can fill in.

"We've gotten a lot of feedback from advisors on that aspect of the process," says Morris. "Sometimes people get stuck on those questions. We don't want to hold up the entire process, so we've given advisors the flexibility to turn off those questions in the software. If somebody is stumped, we can get the trust documents and the health care directives back to them, and then, when the client is at the signing, they can check the boxes for their wishes on the healthcare directive, then sign and

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Current Version ID	Client Last Name	Status	Start Date	Last Saved	Completed Date	Submission Type	Target Review Date	Actions
3140	Franklin	In Progress	02/25/2021	09/20/2021 06:54pm	N/A	Client Driven	N/A	Edit View Delete
1703 - 0002	Morris	In Progress	08/18/2020	09/20/2021 06:54pm	N/A	Client Driven	09/23/2020	Edit View Delete
1792	Denver	In Progress	08/17/2020	09/20/2021 06:54pm	N/A	Advisor Driven	N/A	Edit View Delete
1791	Marley	In Progress	08/17/2020	09/20/2021 06:54pm	N/A	Advisor Driven	N/A	Edit View Delete
1790	Hendrix	In Progress	08/17/2020	09/20/2021 06:54pm	N/A	Advisor Driven	N/A	Edit View Delete
1789	Bono	In Progress	08/17/2020	09/20/2021 06:54pm	N/A	Advisor Driven	N/A	Edit View Delete
1785	Winehouse	In Progress	08/17/2020	09/20/2021 06:54pm	N/A	Advisor Driven	N/A	Edit View Delete
1784	Prince	In Progress	08/17/2020	09/20/2021 06:54pm	N/A	Advisor Driven	N/A	Edit View Delete

1 Page 1 of 1 | Viewing 1-8 of 8 records.

notarize it."

The last step names a guardian, and this page only shows up if there are beneficiaries currently under the age of 18. "You have the capability to put in notes, so the client can have the flexibility to say, I want to make sure it will be this way," says Morris. "I can say, *Guardian 1 should be bypassed if there is a divorce, and Guardian 1 isn't living with his current spouse. Then Guardian 2 would take the three kids*."

Finally, there is a summary page that lists all the information that has been submitted, so the advisor and client can look over the work they've done together one last time, and either sign off or make changes. "We go this extra length to verify everything," says Morris, "and it is time-stamped in the software. That's one of the little things we've thought through, so we can minimize every bit of risk to the advisor who is helping their clients in this area, so that an heir can't come back and say that their parents would never have made plans that way."

Review process

The information that has been entered into the software is automatically incorporated into template estate documents, similar to the way a law firm has its own document templates. From there, the documents go through an interrnal review process at Helios.

"Every plan that is submitted into our system by the software is populated by the template document created by our state attorney for that client's state of residence—and then we have a team that reviews all the inputs that came into that document," says Morris. "They have a 60-point checklist of things that they're looking for. Things like: *did the client name the advisor as their power of attorney or trustee?* If so, we're going to kick that plan back out. *Sorry. That is not cool; we are not going to give you this plan document*. We're going to look through all of those nuances that the technology can't catch, and make sure the quality control is there. We have humans who review everything before it goes back to the advisor."

The completed and reviewed documents are sent back to the advisor within five business days, so the advisor can present them to the client on their mutual schedule. Helios makes a client vault available for clients to store these documents, but Morris says that most advisors already have an eMoney vault or client vault through their portfolio reporting software, and most clients don't want to remember another login credential. "In any case," he says, "we want the advisor to be the hub, so that if a client has surgery, and the daughter needs access to the healthcare directive, the advisor will say: *'I've got it in my system,'* and send it over. They can support the family in that way."

Helios also provides a dashboard (see above), so the advisor can see every client who is in the estate planning process, how far along they are, and there's an "edit" button which allows advisors to make changes and edit the plan on behalf of the client. "For each client, there's a link to that summary page," says Morris, "where advisors can pull up the basic information incorporated in the documents, the family information, each child, beneficiaries, distribution schedules, charitable gifts, power of attorney and health care directives, who the client chose in each case to make those decisions, and say, maybe in a yearly meeting, *'Here are the details. Is everything still accurate?'*"

As I look back over the totality of the Helios service, I find myself comparing it to the rather messy process of recommending a local estate attorney to the client,

then following up to see that the appointment was made, then asking for those documents from the estate attorney if/when the process is consummated. The annual review process seems especially simplified with Helios, and the price is likely more affordable than what the client would pay when the process is delegated to a private law firm.

Morris says that a major upgrade to the Helios software is planned for early 2022, with a new user interface and integrations with the leading CRM providers.

Option three

So how, exactly, are advisors using Helios with real-world clients? Clifford Downie, of Downie Financial Group in Mission Viejo, CA, runs a one-person firm—less drama, he says, than when he worked in a brokerage environment. He's found that Helios has greatly increased estate planning implementation among his predominately middle-class clients.

"Before Helios, when I did my reviews with clients, I would always bring up their estate planning needs," he says. "If there was a need, I would give them two options. They could do it themselves, using LegalZoom, which offers a great service. If they wanted to work with an estate attorney, I would give them a couple of names that I recommended, who I felt like charged a fair price."

And then Downie would find himself repeating this message over and over again. "Typically, in the next review, I would ask, *hey, have you gotten around to doing your estate plan?*" he says. *"Nah; we're still working on it*. The next review, I would ask, *hey, have you done it? No; life is happening*."

A typical information-gathering call with clients will take 45 minutes, but the process is becoming faster as Downie becomes more familiar with the system.

Downie found out about Helios as a member of the XY Planning network. "Somebody posted a message about the problems they had getting their clients to do estate plans, and somebody else posted that they were using Helios," he says. "So I decided to give it a try."

Now Downie offers a third estate planning option, adding himself to the mix with Helios in the background. "I say, *if you feel like you might need a kick in the butt to get it done*," he says, "*then I can work with you, gather the information, work with the attorneys at Helios, get the documents organized, have them signed, notarized, filed and you're good to go*." He charges $1,750 for these services, paying Helios out of his own pocket. "It's a pretty good deal," Downie adds, "considering that the estate attorneys here in Southern California will charge $3,000 to $4,000 for a very basic service with very uncomplicated situations."

How does it work? Downie will call up the questionnaire on his computer and talk with his clients over the phone, asking them questions. "I actually know most of the information already," he says; "I know their names, the names of their kids, their addresses and so forth. But I have to ask if they have a charity they want to give to, any restrictions on when a minor kid receives the inheritance and stuff like that."

Downie has worked out a system for smoothing out the healthcare questions; he'll send his clients an email a day or two before the phone meeting, outlining the types of questions that they need to be thinking about.

The typical information-gathering call will take 45 minutes, but Downie says that the process is becoming faster as he becomes more familiar with the system. He says the last estate planning conversation, for a client couple in their 60s, took less than 20 minutes.

Most clients will opt for the living trust, and Downie has so far paid for the Helios staff to create the quit-claim deed and file the assets in the trust. "Now that I've done a dozen or so," says Downie, "I can see what the form looks like, and I believe I can do it myself. Going forward I'll probably do the quit-claim deed on my own, and then file it for the client."

Downie has done estate planning work with one client living in Alabama, and the process

was as smooth as it has been with local clients. Meanwhile, he's had younger clients bring him unexpected business. "I did an estate plan for them, and they would bring up the fact that their parents don't have the basics of an estate plan in place," he says. "So I would send the parents an email template with some different options, and the ones that reached out, I did estate plans for the parents."

At this point, Downie isn't uploading the various documents into a client vault; he doesn't have that option in his tech stack yet. "I save everything in Google Drive," he says. "I tell clients, if you have time, you can scan these documents and save them to the cloud or your hard drive."

One area that Downie would like to see improved is the place on the questionnaire where clients are asked to name their executor and the person who will be their power of attorney.

"The software assumes those will be the same person," he says. "But sometimes clients want them to be two different people. There's a place where I can write in a note, and say *'this is what we're trying to accomplish,'* and that helps them make sure everything is set up correctly," Downie adds. "But it would be better if they had a separate tab for the executor, or a box you could check if that person is also the power of attorney, and if not, there would be a field that you could fill in a different name."

Overall, Downie feels like the service has passed a couple of formidable tests for accuracy and completeness. "I have one engineer-mindset client who read every single word of the whole set of documents, and he was happy with it," he says. "I have a client who is a district attorney in LA, who read the documents, and he, too, was happy with them. So I figure, if *they* signed off on them, then the service must be pretty effective."

Until he started bringing in Helios, Sipe's clients were always kicking estate planning to their back burner.

Off the back burner

Chris Sipe, founder of Cedar Cove Wealth Partners in Bloomington, MN works with three other advisors who collectively manage $300 million of client assets. "We spend a lot of time thinking about: *what is our value proposition to clients?*" he says. "And: *how do we make sure we're delivering increasing value as time goes on?*"

The question quickly led to estate planning. "We realized that a lot of our clients had done a great job kicking the estate planning work out to the back burner of their priority list," Sipe says. "But part of it was on us: we had to figure out how to make it easier for clients. From their standpoint, the whole estate planning process seemed overly complicated."

Sipe also wanted better control over the experience. "In the past, we've referred our clients to other professionals who didn't care about our clients as much as we do," he says. "And we want to make sure that the followup items like beneficiary updates and titles were taken care of. We wanted to make sure all the things that go along with drafting the documents were not falling through the cracks."

The firm signed up for Helios in January, and in phase one, the planning team has been systematically evaluating the estate plans of their current clients. "We're looking at whether they already have estate planning documents, and if they do, are they sufficient?" Sipe says. "If a client already has an estate planning attorney, and there is a good relationship there, then for those people, we probably won't introduce Helios at all."

Even if there is a need, Helios is introduced as one of three options. "We tell them, *if you feel comfortable and confident, you can probably figure this out on your own*," says Sipe. "*There are great resources online, like LegalZoom.com, and that's probably the least expensive option. But there, you run the risk, if you do it wrong*," he adds, "*we might not find out what's wrong until something happens and those documents start to matter*."

Sipe also offers to introduce

clients to a local estate planning attorney that the firm has worked with for years. "If they want a face-to-face relationship with the person who is drafting the documents, that's a great way to go," he says.

The middle option, which roughly 90% of clients have chosen, is Helios. "We get the expertise of the Helios team, but the cost structure is reasonable and the process is a bit more streamlined for our clients to be able to execute," says Sipe. "It allows us to control the client's experience. Rather than them having to meet with somebody new at a law firm they've never interacted with, they can work with our team, who they've already gotten to know through our onboarding process."

Walking clients through the process starts when Cedar Cove's planners send their clients a copy of the Helios questionnaire in PDF format. "That lets them preview all the questions we're going to be asking them during the session," Sipe explains. When the clients come in for the meeting, the planner will log onto Helios and clients are generally prepared with answers. "Some of them actually fill out the questionnaire, and if they do that, we can pre-fill everything before the meeting," Sipe adds. "But most of the time, they come prepared for what the answers are going to be."

In this process, Cedar Cove takes full advantage of the white label opportunity. "Our clients never see Helios, never meet Helios, and they probably don't even know what Helios is," says Sipe, adding that the firm pays Helios and bills clients for the added estate planning services. "The clients see it as the Cedar Cove estate planning process," he says.

Cedar Cove clients never see Helios, and probably don't even know what Helios is.

Do most clients prefer the trust option or opt for simply drafting a will? "If they have young kids at home," says Sipe, "that's usually a good reason to go the trust route, so they have some protections in place. And of course a lot of folks want to avoid probate if they can," he adds. "The way Helios prices it, the cost difference between a will-based plan and a trust-based plan is pretty close."

The entire process generally takes 30 minutes to an hour, with most coming in on the low end of that estimate. "The only place where we've seen it stall," says Sipe, "is when clients aren't 100% sure where they want to leave their money. If they want to have a charitable legacy, along with their kids, then we have to spend some time thinking about it."

He hasn't experienced any time-consuming hangups where clients get stuck on the health care and do-not-resuscitate issues. "The Helios system is pretty straightforward," says Sipe. "Clients are able to just check the boxes and move on."

Sipe warns that the process isn't always as simple as checking boxes, because even after the documents are drafted, the advisor team has to attend to the follow-through items. "My advice would be to make sure you know all the steps in the process, and have a process to make sure all the steps get completed," he says. "If you're not on top of it, you're going to forget to change the title, change the beneficiary, update the account—whatever it might be."

But of course that would be necessary even without the convenience of Helios. Sipe says that he and his team feel much more on top of clients' estate planning needs than he was before January.

"It's much more effective compared with how we used to do it," he says. "When we were referring all our business out to an estate planner, they would do great documents, but sometimes we would get a copy of them from the estate planner, and sometimes they wouldn't send them and we'd have to get them from the client, and it was more of a back and forth. Now," Sipe adds, "we have workflows in our CRM, here are all the accounts or products that we can directly update, and we can task the client with anything that we can't update on their behalf. We give them the resources to make sure those get updated, and follow up to make sure these things were actually completed."■

Consulting From the Inside Out

Synopsis: ***Jay Hummel and John Phoenix are streamlining and reinventing the wealth management firm service model, and providing a template for survival as the advisory market-place matures.***

Takeaways: ***Let advisors be advisors without distraction so they can maximize their client relationships. Find the best outsource providers, and partner with companies that can deliver specialized expertise and service to your clients.***

Jay Hummel has created an interesting consulting career for himself. I first met him not long after he had been hired away from an executive position at Proctor & Gamble to take over as the managing executive at Lenox Wealth Advisors in Cincinnati, OH (recently acquired by Creative Planning). Hummel spoke at our Insider's Forum conference as part of a panel discussion on the challenges faced by next-generation successor advisors—still one of our must successful presentations ever.

Out of that experience, Hummel teamed up with co-presenter and fellow next-generation successor Eric Hehman of Austin Capital Management and Aspiriant co-founder Tim Kochis (who was on another panel that year) to write *Success and Succession*, a guidebook to creating successful transitions from founders to their G2 leaders.

Since then, Hummel took a position as Senior VP of Advisory Services and then Managing Director of Strategic Initiatives and Thought Leadership at Envestnet, before moving over to American Century in Kansas City, MO, as Senior VP and Head of Personal Financial Solutions. The consistent thread of these leadership roles is helping wealth management businesses become more successful in a variety of metrics. Finally, Hummel created his own management consulting firm in February, 2019 (3i Partners, LLC) and then, in September of the same year, he co-founded Wealth Advisor Growth Network (*https://wagn.biz/*) with John Phoenix, formerly Managing Director of Advisory Services at Envestnet. And this is where the interesting part comes in.

Hummen and Phoenix will take minority interests in advisory firms, and then provide internal consulting to help them grow.

Interesting how? The thing about consultants is that they help others become more successful. Yes, the consultants get paid well for it, but they don't share directly in the successes that that they create; it's a bit like being an employee with a firm that is growing rapidly and generating greater revenue, and aside from a yearly bonus, the success you're contributing to accrues to the firm owners. Years ago, the leadership team at Bain Consulting came to a similar realization, and decided to buy companies and apply their management consulting expertise to add value to entities where they, themselves, would be the primary beneficiaries.

Hummel and Phoenix have done something similar. With seed capital from Merchant Investment Management, they've taken minority stakes in Elk River Wealth Management in Denver and Naviter Wealth Management in Little Rock, AR, formerly a part of Stephens, Inc. "Our goal is to become minority partners in a small number of RIAs, and see if we can't help the industry grow faster," Hummel explains.

So, yes, this is different from Bain, which buys entire businesses. Wealth Advisor Growth Network will buy shares at a discount or receive grants of additional shares in return for Hummel and Phoenix acting as partners, providing an ongoing internal consulting engagement. "Our goal is to own between 10 and 30 percent," Hummel says. "We honestly don't want to own more than that. Our premise when we started this was that we wanted to help build the firms of the future,

that are going to compete favorably in the marketplace. We want to participate in the kind of wealth management firms that are not going to experience fee compression because of how they provide value."

And that means…? "This is where people get after me a little bit," Hummel concedes, "but I believe that advisors should be doing more for clients. You have to be able to differentiate yourself from the retail box shops," he adds. "I can't believe the number of firms that still focus on low-cost ETF allocations as the value proposition of what they do. The future firms will have to round out the services they're providing with full balance sheet management, including lending, insurance, corporate trustee services—and figure out how to generate revenue out of providing those services."

Outsource options and specialized services

There are three areas where these minority partner business consultants add value. The first is helping the founders get rid of distractions so they can focus on maximizing their client relationships. "If you went to Elk River Wealth Management's website, you would see us as partners in the firm," says Hummel. "Chris, the CEO at Elk River, never has to worry about the budget or the lease. When the lease came up, we renegotiated it and figured out what we were going to do regarding their space; he never had to touch it. With every firm where we take a partnership interest," Hummel continues, "we want to maximize their platform and everything they do so they can spend as much time as possible with prospects and clients."

Hummel has been flying around the country identifying the best compliance bookkeeping and CIO outsource providers.

In fact, Hummel believes that this, in itself, can be a huge competitive differentiator. "It drives me crazy in our RIA space that when I walk into advisor offices, the advisors are thinking about whether they're on the right CRM, or whether the pie chart should be orange or blue, or whether the billing is better through Orion or Riskalyze or whatever," he says. "If you go to a Morgan Stanley or Merrill Lynch office, the advisors there don't know how to do the billing, and they don't know what CRM they're on. Their job is to spend time with clients. Despite all the negatives that I feel about the wirehouses, I think there's something to be learned there. We're trying to create an environment where advisors are advisors."

In the second value-add area, Hummel tries to streamline the firm's operational efficiencies, by identifying best-of-breed outsource providers. "We've been flying all around the country looking for the best compliance, bookkeeping and CIO outsource providers," he says.

The outsource bookkeeper he currently favors is Compass CFO Solutions. "What I like about them is that they focus only on RIA firms," says Hummel. "They don't hold themselves out to be compliance experts, but the fact that they only do business in the RIA space allows them to find things that might be missed by a normal accounting firm."

Who is the compliance provider? "After a lot of research, we've decided that the best compliance firm in the country is Advisor Assist out of Boston," says Hummel. "We can say to them: *this is the particular challenge with this firm*, and they know the business so well that they can address it directly."

Beyond that, Hummel and Phoenix are developing service-related partnerships with their wealth management firms. The goal is to find service providers who bring value to clients in ways the are beyond the expertise or capabilities of even the most comprehensive planners.

"We managed to find what we believe is the best partner in lending to small business owners and wealthy clients," says Hummel. "They provide anything from securities-based lending to mortgages to corporate business lending—so the advisors can offer a true lending platform."

He also found two open-platform life insurance intermediaries: One Resource Group in Ft. Wayne, IN and Lion Street in Austin, TX. "They're both level-fee," Hummel says, "so regardless of what carrier writes the insurance,

the financials are exactly the same. ORG tends to be a little more focused on the one-to-five million dollar client, while Lion Street tends to be a little bit higher-end."

A similar arrangement now gives the advisors access to property/casualty insurance for clients. "One of our investors called me one day and said: *we have this amazing relationship with the first open-architecture property/casualty brokerage firm in the country*," says Hummel. "*Would you ever think about bringing property/casualty to RIAs?*"

Hummel flew to New Jersey and met the principals of KORE Insurance, whose principals were branded as EMAR before that company was purchased by Wells Fargo. After an unhappy marriage with the wirehouse, the son of the founder left and reassembled his former team to create the new firm. "Now they're in the top three of the largest independently-owned property/casualty businesses in the country," says Hummel.

"Across each of our firms, the exact same providers—one lending partner, two life insurance partners and the property/casualty firm—are providing the services for all of our advisory clients, so there is scale," says Hummel. "There is consistency in approach, and over time there may be more centralized functions that will come out of that."

These relationships allow advisors to provide that broader array of services that Hummel believes will be the key differentiator in the future. His particular focus, not surprising for a lifelong consultant, is small business owner clients. "Wealth management firms have always looked at these business owners through the lens of: all their money is in their businesses, so they don't have investable assets," says Hummel. "If you can provide advice on insurance and lending and business management, then, when they monetize that business, you have a leg up on that guy who finds out that the person sold their business for $40 million in the local business journal."

The third area where Hummel and Phoenix are adding value is in the area of inorganic growth. Instead of partnering inside more and more advisory firms, Wealth Advisor Growth Network is helping its existing partner firms make acquisitions. "John is really leveraging his relationships from his Envestnet days, helping our firms beat the bushes for smaller shops that can tuck in and roll under what we're doing," says Hummel. "Our premise is that we are only going to invest in five firms, and build them into firms that people are going to want to tuck into. We're not going to try to be like Dynasty or Focus or Hightower or any of the big box shops," Hummel explains. "We want to stay a very boutique firm, and invest in things where we can not only help the firm, but also help the industry."

So far, Elk River has finalized two tuck-ins over the last year and a half. "We brought in a $50 million [AUM] firm in Phoenix, AZ, which wouldn't have made sense with us on their own, but they make great sense being a part of Elk River," Hummel explains. "And then we did a $150 million [AUM] breakaway in Omaha, NB, so now instead of a $450 million firm that we started with, we have a $750 million 3-office location RIA."

The Wealth Advisor Growth Network firms now have outsource partners who can provide a broader array of client services at scale.

Future positioning

What is the revenue model for this new enterprise? "We get monetized on growth," Hummel explains. "If you look at Elk River as an example, not only is it growing, but it is generating 35% profits—and we get our owner distributions. We come in and say, *look, you're not paying us anything. We don't take salaries or a consulting fee*. When we make an investment in the firm, it's because we expect it to grow," he adds, "and if it doesn't, then we're on the same side of the table as the owner. We felt like that model aligned with the interests of everybody."

Of course, the principals also have to align with their new partners on the vision of what the firm of the future will be. Hummel looks at the existing advisory landscape and believes that even some of the big name wealth managers are ill-

prepared to compete in the future.

"I really think money management is dead," he says. "But it hasn't caught up with us yet, and so in the short term, at least with the firms we're running, we think it's unwise to give up the operating leverage of the AUM model. I think in the next five years, the first firms that will experience fee compression are the ones that lead with that mutual fund/ETF asset allocation formula for managing money."

Hummel thinks some of the newer investors in the wealth management space are leading it in a potentially dangerous direction.

At the same time, he says, firms that realize they have to expand their service offering, and try to do everything in-house, will see their expenses balloon up, and will have a hard time charging as much as the internal cost of providing those services.

"The formula is a full-service model using outsource partners," says Hummel, "where you don't have to take on the expenses to hire those resources. Life insurance, for example: you provide the service, which protects your fee, but you are not adding expenses because that outside partner is not on your payroll. It's going to allow you to drive more revenue per client."

That's five years out. Looking further, Hummel expects his firms to provide a deeper client engagement than their competitors. "In ten years," he says, "the successful RIAs are going to look like an investment banking consulting firm. They'll be doing planning extremely well, and lending and insurance extremely well, but they are also going to be providing consulting services to business owners about how they can more effectively run their businesses, and how to do exit planning, and they will take care of the investment banking and succession planning for their clients."

At that point, will AUM revenues be replaced by flat or retainer fees? "I think people will get more sophisticated about how they package their services and charge their clients," says Hummel. He tells the story of an accounting firm with a financial planning division that he recently talked with. "The CPA firm was charging their normal per-hour fees for doing taxes and compliances, and those clients were really unhappy that they were being billed hourly for those services. And then the wealth management clients, over there, were being charged 55 basis points to manage money, with no pushback."

The solution? The accountants went to the planning clients and proposed that their fees be packaged differently. "They said, *we'll add 10 basis points to what you're paying*," says Hummel, "*so it will be 65 instead of 55, and you'll never have to pay a bill again for our accounting work. We'll still keep your books, and cross-charge the wealth management side*."

The result? "Everybody was happy," Hummel says. "The clients thought that paying the extra ten basis points was a steal, because they never had to look at another invoice. Meanwhile, the accounting firm turned non-recurring revenue into recurring revenue, which drove their valuation up by about twelve percent. I think," he says, "there are creative ways that the assets under management fee can be packaged, so it won't entirely go away."

Hummel also thinks that some of the newer investors in the wealth management space are leading it in a potentially dangerous direction. "I have friends who own private equity firms, and private equity firms always think bigger is better," he says. "Right now, there is so much money coming into our space from people who don't understand our industry. I look at deals and what people are paying and trying to combine things, and the end client is completely ignored in many of these transactions. When you have all this dumb money coming in," Hummel warns, "there are going to be firms that get bigger and bigger, prodded by their PE investors, and their employees and clients are not going to be better served for it."

Looking out ten years, Hummel is positioning the firms he's partnering with to compete favorably against wealth management brands that he expects to be extremely large and 'soulless.' "We wanted to have a local feel to our company, and we wanted a distinct culture, right down to the brand," he says. "Yes, we want the firm to have national capabilities," he adds, "but we still want to have a local feel, local ownership, local infrastructure and

deal with clients locally. Those big brands that try to go national are going to look like AG Edwards, like the super-regionals that don't fit comfortably in the wirehouse space."

Expedited E&O

There's one more aspect to Hummel's story that readers should be aware of. When he talked with the people at KORE Insurance, Hummel realized that he could leverage their expertise in a specialty market where he happened to have particular expertise that he could add to the service.

"KORE has 435 employees scattered throughout the country, which gives them a great service infrastructure," he says. "So we went to them and talked about our understanding of the RIA space, how we could sit on top of KORE's infrastructure and give RIA's a better E&O experience than they can get from the broker down the street."

Out of that conversation came AIK2 Insurance Services (*https://aik2.com/*), which is basically an E&O brokerage operation that interfaces with larger underwriters like Markel, Chubb and Corvus.

"When I looked at the way the E&O coverage worked at the firms we were partnering with, it blew my mind," says Hummel. "The average RIA has to answer between 177 and 217 questions to get insured, and many of the questions make no sense. I talked with a broker who thought most RIAs still block-trade at the custodial level using Excel spreadsheets. They didn't know about Orion and Tamarac and Envestnet and Black Diamond. They didn't understand how that impacted risk. So we spent a year developing new underwriting protocols, and figured out how to re-underwrite RIAs so we could create specialty insurance products for them—and reduce their E&O costs."

To obtain E&O coverage, the average RIA has to answer between 177 and 217 questions, and many of these questions make no sense for the firm's business model.

By how much? Hummel cites an RIA firm that had been paying $112,000 a year for E&O coverage. "And they didn't have cyber coverage," he says. "We were able to rewrite their policies to add several coverages, including cyber, and brought their insurance spend down to $81,000."

In another situation, Hummel and Phoenix were helping some of their friends at another RIA set up a pooled trust arrangement for clients. "We're using a firm in Denver that we really like, which is actually creating these vehicles," says Hummel, "so that the advisory firm clients can get into a real estate investment that would normally require individual investments of $5 million.

The pooled trust vehicle lowered the minimum to $250,000 per investor. The advisory firm took no discretion over the investments; each investor signed an individual agreement, and the trust offered a certain amount of liquidity even though the underlying investments were illiquid; other shareholders or the real estate company itself could buy out the firm's investors.

"We had done their E&O coverage," Hummel explains, "and they had been paying $23,000 a year, which was a lot lower than what they had been paying before. We notified the carrier about the new pooled trust arrangement, and they immediately said they were going to add $10,000 to the premium. We went in and showed them how this was a single-purpose pooled trust, that the way it was structured was no more risky to the firm than buying an iShare. And not only did they take the premium increase back down to zero," he adds, "they thanked us for educating them on what RIAs do." The trust is now included in the E&O coverage at no additional cost.

The primary carrier that AIK2 works with is Markel. "They are the insurance company and we're serving as the distributor," Hummel explains. "We're looking now at creating an insure-tech offering, doing exactly what the robo advisors were doing, but in the E&O space. We think we're going to make it a lot cheaper for RIAs to buy insurance and increase their coverage at the same time.

"If you look at everything we're doing," Hummel adds, "the single unifying theme is that we're trying to help the advisory profession become more valuable to clients, and better position itself for the future."■

Parting Thoughts

How the SEC Has Strayed From Its Mission

In case you missed it, the XY Planning Network—Michael Kitces and Alan Moore—have filed two petitions with the SEC, and they're far more ambitious in what they're asking for than anything I've seen from our trade or professional organizations. In fact, they make the case that the SEC has totally perverted its consumer protection mission, which is clearly spelled out in the law, for at least the past 20 years.

If the petitions get traction, it could bring about huge shifts in the regulatory playing field for fiduciary advisors and Wall Street—and benefit financial consumers perhaps most of all.

One of the XYPN petitions asks the SEC to greatly expand on its 2018 proposal to limit what brokers and registered reps are allowed to call themselves if they continue to refuse to register as RIAs and avoid bringing themselves under the fiduciary regulatory structure. That 2018 proposal suggests (but doesn't mandate) that brokers be forbidden to describe themselves using the terms "advisor" or (the SEC's quirky spelling) "adviser." The petition notes that the SEC, in response to litigation from the Financial Planning Association back in 2005, had proposed to go further, and require anyone holding themselves out as a "financial planner" or providing "financial planning services," or delivering a financial plan to their customers, be required to register as an RIA.

Of course, this was never finalized. Then came Reg BI, in 2019, where the Commission decided that adopting a separate rule restricting these terms was 'unnecessary.'

If I read the petition right (and I think I do), it is asking the SEC to prohibit any title that suggests to the consuming public that the broker or rep is acting primarily in an advice capacity—until and unless that broker or rep registers as an RIA and puts him/herself under the obligations of a fiduciary standard.

This first petition also touches on dually-registered individuals, recommending that, if they hold themselves out as advisors, they be required to disclose precisely when their work as an advisor ends and their efforts to effect a sale begins—something that is far from clear in current client engagements.

The second petition asks the SEC to stop pretending that giving financial/investment advice is "solely incidental" to the current wirehouse business model. It says that the current regulatory scheme allows broker-dealer reps and brokers to hold out as providing identical financial planning services as SEC-registered RIAs, and deliver an identical financial plan to clients, and receive identical fees, yet be subject to a lower (suitability) standard of care. *"By clearly (re-)defining 'solely incidental' in Sec. 202(a)(11)(c) of the Advisers Act,"* the petition says, *"the Commission can increase investor protection by (re-)asserting a distinction between product sales and stand-alone investment advice."*

Once again, dually-registered individuals receive consideration. The petition recommends that the fiduciary standard should apply to every recommendation associated with every client relationship whenever the rep is SEC-registered; that is, the fiduciary standard should cover any subsequent 'implementation' of that advice (i.e. sales) after the initial advice has been delivered. Dually-registered advisors would only be able to wear one hat.

This second petition includes some draft language that the SEC could adopt, which spells out that a broker should be required to either register its reps with the SEC or stop calling those reps advisors, financial planners, wealth managers etc. The list of things that would trigger the requirement to register also includes the delivery of a financial plan, holding out as providing advice or holding out in any way (presumably including advertisements) that indicates the offer of holistic financial advisory services. It says that the fiduciary duty covering investment advisors would apply to the entire advisor-client engagement, and arise as a matter of law whenever an investor gives an RIA his/her trust and confidence.

Both petitions are signed by Michael Kitces in his capacity as Executive Chairman and Co-Founder of the XY Planning Network.

Historical precedent

I know that some of you are shaking your heads, and mumbling something like: *"Yeah, I've heard all this before, and you know what? The regulators aren't going to do diddly, except, perhaps throw these petitions in the circular file before they're taken to expensive lunches by Wall Street executives."*

I mumbled something like that myself when I read the simplistic accounts about these groundbreaking petitions in the trade press, which all XYPN's latest initiative seem like one more quixotic, doomed-to-fail appeal to the (nonexistent) better angels of the SEC's nature. But after reading the petitions, I find it hard to poke holes in their logic. The points they make are a striking contrast to the blatant cynicism of the Reg BI initiative. Is it possible that the SEC has overreached, and made clear what was not clear before: that it's deliberately subverting the language and intent of the Investment Adviser's Act of 1940?

To understand how, we need to back up a bit. I've written elsewhere that the entire rationale for the 1940 Act was to protect the public—and the reputations of consumer-focused advisors—from the marketing encroachments of the financial sales industry. The minutes of the Congressional Committee, back in 1939, when the Act was being formulated, directly mention how touts and tipsters should prevented from posing as honest advisors. The whole premise of the legislation that forms the foundation of the SEC's regulation of the financial services marketplace is in direct agreement with the XYPN petitions.

On his website (*https://www.kitces.com/blog/xypn-sec-petition-208c-advisers-act-title-reform-solely-incidental/*) Kitces provides a historical tour of the thinking behind the foundational document that is the '40 Act, which illustrates how far the SEC has gone to ignore its basic premises. (You can find another history tour here: *https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1167&context=vlr*)

Among the highlights:

-In the aftermath of the 1929 stock market crash and well into the 1930s, brokers, touts, tipsters and other salespeople fell into great disfavor with the general public—perhaps due to millions of dollars of losses and rampant fraud in the investment trust industry. Those who could afford it increasingly turned to investment counselors (that was the equivalent of 'financial planner' in that era). Before long, the banks, brokerage firms and investment trusts decided that they would adopt this popular, trust-enhancing term for their sales agents. (Does any of this sound familiar about today's marketplace?)

-The Investment Counsel Association of America (now the Investment Advisers Association) testified before Congress that their fee-only approach to providing objective financial advice needed to be protected by a regulatory framework, else the public would be misled (and ultimately damaged, the way they were during and after the market crash) by the tipsters, frauds and touts. Congress subsequently passed the 1940 Act, and its committee report states (as I've pointed out in the past) that the legislation's purpose was *"to protect the public from the frauds and misrepresentations of unscrupulous tipsters and touts and to safeguard the honest investment advisers against the stigma of the activities of these individuals."* (An interesting contrast to how the SEC operates today, no?)

-The core purpose of the '40 Act was to separate sales from advice, but to do this without interfering in forthright (and entirely legal, if sometimes shady) sales activities conducted by the banks and brokerage firms. The sales agents could continue to sell, so long as they didn't try to convince their customers the they were in the advice business. This meant that they could tell their customers what to buy (which is, of course, a form of advice) but they had to stay on the far side of a bright line. The '40 act chose to call that bright line 'solely incidental,' as in: the advice to buy this product the salesperson is selling is incidental to the business of selling, and the broker forthrightly earns a commission, and does not charge for the advice.

The '40 Act states (remember the petition's reference to Section 202(a)(11)(c)?) that brokers or dealers would be exempted from investment adviser registration if they provided advice that was *"solely incidental to the conduct of his business as a broker or dealer and… receive no special*

compensation thereof." (So if a broker collects AUM fees, or advisory fees, isn't that 'special compensation' related to advice? When a brokerage firm's TV ads talk about providing advice in the best interests of the client, without any mention of product sales, does that sound like that is a 'solely incidental' service?)

-In 1960, Congress enacted Section 208 of the '40 Act, which makes it unlawful for someone *"to represent that he is an investment counsel or to use the name 'investment counsel' as descriptive of his business unless: 1) his or its principal business consists of acting as investment advisers; and 2) a substantial part of his or its business consists of rendering investment supervisory services"* (i.e. giving advice on managing a client portfolio). [Note the term '*his*' throughout. Apparently it was unthinkable, at that time, that a woman would be a broker.]

Of course, today nobody calls themselves an 'investment counselor,' but it is not hard to read the intent of Congress—to stop brokers and reps from appropriating titles that imply that they are in a business other than sales, and that they are so representing to the client when they are, in fact, obligated in exactly the opposite direction: to serve the best interests of their brokerage employer.

Kitces notes that after the Mayday (May 1, 1975) elimination of fixed commissions, brokerage firms had to reinvent themselves and their business model, to shift from stock and bond trading to getting paid to distribute products. Suddenly every broker was calling him/herself a financial advisor, and appropriating the trust that real advisors had been building with the public. (Is 'stealing' a better way to describe it than 'appropriating?')

From there, Kitces offers a brief tour of the history you're familiar with: how the SEC started softly sneaking away from the core principles and plain intent of Congress codified in the '40 Act, until finally it found itself squarely on the opposite side of the table with Reg BI, where brokers and advisors are essentially considered interchangeable in the eyes of the regulators.

To illustrate the absurdity of this position (especially in light of the history of the '40 Act), Kitces offers a hypothetical example of how two 'advisors' both deliver financial plans to their clients, and both receive 1% AUM fees. One creates a portfolio of thrifty ETFs and bills the client's account directly, owing total loyalty to that client's best financial interests. The other earns that compensation in the form of a 1% C-share trail from one or more of his company's high-cost proprietary mutual funds, giving total loyalty not to the client, but to the broker's employer.

They're the same, right?

The article contains an interesting chart, which maps out, on a grid, the results of surveys of customer loyalty (X axis, going across) for different professions, and how competent consumers perceive them to be (Y axis going up), which produces a graph that looks a lot like the traditional risk/return space. As you can imagine, car salespersons and politicians are on the lower left quadrant (not good), and doctors enjoy a space in the upper right quadrant (high loyalty, high perceived competence).

The point here is what's in the middle. People who call themselves financial planners, financial advisors, financial counselors, investment consultants and investment advisors are all further up and to the right than stockbrokers, investment salespeople and life insurance agents.

No wonder Wall Street coopted those former terms and abandoned the latter ones. They took the trust built up by the fiduciary advisor profession and used it to give unearned credibility to their sales agents and reps. It's fundamentally a form of thievery, sneakily, then openly, now brazenly sanctioned by the SEC.

And… Is this not *exactly* what the Investment Advisers Act of 1940 was created to prevent?

The two petitions, and Kitces's article, toss the ball into the SEC's court, and basically ask the SEC to live up to its mission of protecting the public under the legal guidelines provided by Congress, who saw this very encroachment 60 years ago and sought (so far, in vain) to create a regulatory structure that would forestall and prevent it.

If you have contacts in the press, I recommend that you point to the petitions, the Kitces article and this summary as a way to help the press recognize that an actual outrage has been perpetrated on unsuspecting consumers—by the very people who are charged with protecting them from it.■