

A. DUTIES OWED TO CLIENTS, 12. DUTIES WHEN REPRESENTING COMPENSATION METHOD:

1: A CFP® PROFESSIONAL FIRM'S SALES-RELATED COMPENSATION

Mildred is a CFP® professional employed by Alpha Advisory Services, Inc. ("Alpha"), a registered investment adviser. Mildred tells Thomas, a client of Alpha, that her compensation method is "fee-only." Thomas asks Mildred for investment recommendations. Mildred gathers the information that she needs, conducts an appropriate analysis, and recommends that Thomas invest in an Alpha-approved family of mutual funds after making the required disclosures. Thomas is pleased with Mildred's recommendation and directs her to make the investment. The only compensation that Mildred receives is a salary from Alpha. Mildred does not receive any additional compensation when Thomas invests in the mutual fund. Although her firm discloses the information to Clients, Mildred does not realize that Alpha receives revenue sharing payments from the mutual funds she recommends, including the Alpha-approved family of mutual funds in which Thomas has invested.

QUESTION:

Has Mildred complied with the Duties When Representing Compensation Method?

RESPONSE OPTIONS:

- A. Yes. Mildred accurately informed Thomas that she is "fee-only" because her only source of compensation is her salary and she does not receive any additional compensation when Thomas invests in the mutual fund.
- B. No. Mildred may not refer to her compensation method as "fee-only" because her firm, Alpha, receives revenue sharing payments from mutual funds.
- C. Yes. Mildred may refer to her compensation method as "fee-only" because she is not aware that Alpha receives revenue sharing payments from mutual funds, and thus she has no incentive to recommend the mutual funds to Clients.

Best Response: Response B is the best response. This case involves the Duties When Representing Compensation Method (Standard A.12.).

A CFP® professional may not make false or misleading representations regarding the CFP® professional's or the CFP® Professional's Firm's method(s) of compensation. A CFP® professional may represent his or her or the CFP® Professional's Firm's compensation method as "fee-only" if:

- (a) The CFP® professional and the CFP® Professional's Firm receive no Sales-Related Compensation; and
- (b) Related Parties receive no Sales-Related Compensation in connection with any Professional Services the CFP® professional or the CFP® Professional's Firm provides to Clients.

Sales-Related Compensation is defined as more than a *de minimis* economic benefit, including any bonus or portion of compensation, resulting from a Client purchasing or selling Financial Assets, from a Client holding Financial Assets for purposes other than receiving Financial Advice, or from the referral of a Client to any person entity other than the CFP® Professional's Firm.

Here the revenue sharing payments are Sales Related Compensation because they are more than a *de minimis* economic benefit that results from the Client purchasing an investment in the mutual fund. Mildred may not refer to her compensation method as "fee-only" because her firm will receive Sales-Related Compensation. Mildred's failure to know that her firm receives Sales-Related Compensation does not excuse her representation that her compensation method is "fee-only." Whether a CFP® professional may represent his or her compensation as "fee-only" depends on the objective facts, not on his or her subjective beliefs. Mildred is responsible for knowing whether she or her firm receives Sales-Related Compensation, and whether any Related Parties receive Sales-Related Compensation in connection with any Professional Services she or her firm provides to Clients.

Response A is not the best response because Mildred may not represent her compensation method as "fee-only." While Mildred does not receive any additional compensation when her Clients invest in the mutual funds, her personal compensation is only one factor that she must consider in determining whether she may represent her compensation method as "fee-only." Mildred also must consider the compensation that her firm and any Related Parties receive. Because her firm receives Sales-Related Compensation in the form of revenue sharing payments, Mildred may not refer to her compensation method as "fee-only."

Response C is not the best response because Mildred's duty when representing her compensation method depends upon the objective facts, not her subjective understanding of the facts. A CFP® professional who decides to represent his or her compensation method as "fee-only" has a duty to know the objective facts and make truthful and non-misleading representations about those facts.

Relevant Standards and Definitions: Duties When Representing Compensation Method (Standard A.12.) Instructions (A.1.c.).