

## A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:

# 2: THE FIDUCIARY DUTY APPLIES TO AN OPINION ABOUT A FINANCIAL ASSET

Allison is a CFP® professional who is a registered representative of a broker-dealer. Allison has provided brokerage services to her Client, Mateo, several times over the past three years. Typically, Mateo wants to purchase a specific stock and asks Allison for her opinion before purchasing the stock. Mateo recently asked Allison what she “thought” about Mateo buying a specific stock he intended to purchase. Allison told Mateo that she has looked into the company and that she likes the stock and believes it is undervalued. Mateo then directed Allison to purchase the stock.

### QUESTION:

Does Allison have a Fiduciary Duty?

### RESPONSE OPTIONS:

- A. Allison does not have a Fiduciary Duty because Mateo identified the specific stock at issue.
- B. Allison has a Fiduciary Duty because she provided Financial Advice when she communicated with Mateo regarding the advisability of purchasing the stock.
- C. Allison does not have a Fiduciary Duty because Mateo ultimately directed Allison to buy the stock after Allison communicated with Mateo regarding the advisability of the purchase.
- D. Allison has a Fiduciary Duty because she effected the stock transaction for Mateo.

**Best Response:** Response B is the best response. This case study involves the Fiduciary Duty (Standard A.1.) and the definitions of Client, Financial Advice, and Financial Assets (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. A Client is any person to whom the CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement. Financial Advice includes a communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to, among other things, the value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets. Financial Assets include securities, insurance products, real estate, bank instruments, commodities contracts, derivative contracts, collectibles, or other financial products.

Mateo asked Allison about a specific stock before making a decision whether to purchase the stock. The content, context, and presentation of this communication makes clear that Mateo was asking for Allison’s recommendation with respect to the advisability of purchasing the stock. When Allison responded to Mateo’s question by saying that she likes the stock and that the stock is undervalued, she made a communication that reasonably would be viewed as a recommendation that Mateo purchase the stock. A stock is an equity security, which is a Financial Asset. Mateo is a Client because Allison provided Financial Advice and related services to Mateo pursuant to an Engagement. Therefore, because Allison made a recommendation to a Client about a Financial Asset, she has provided Financial Advice. Since a Fiduciary Duty arises when a CFP® professional provides Financial Advice to a Client, Allison has a Fiduciary Duty, and was required to act as a fiduciary, and therefore, in Mateo’s best interests, when providing the Financial Advice.

Response A is not the best response. Allison has a Fiduciary Duty because she provided Financial Advice to Mateo, her Client. A CFP® professional who provides Financial Advice to a Client concerning a specific Financial Asset has a Fiduciary Duty even if it was the Client who asked for information about that Financial Asset.

Response C is not the best response because Allison’s obligation to satisfy the Fiduciary Duty does not depend upon whether Mateo directed the transaction. Allison must act as a fiduciary when providing Financial Advice. Allison provided Financial Advice to Mateo because Mateo is a Client and Allison made a recommendation to Mateo about a Financial Asset.

Response D is not the best response. Allison has a Fiduciary Duty because she provided Mateo with Financial Advice. Under other circumstances (such as a Client-directed purchase), a CFP® professional may purchase a stock for a Client without providing Financial Advice. In that case, the CFP® professional does not have a Fiduciary Duty.

**Relevant Standards and Definitions:** Fiduciary Duty (Standard A.1.); definitions of Client, Financial Advice, and Financial Assets (Glossary).