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

5: THE FIDUCIARY DUTY TO OBTAIN FACTUAL INFORMATION WHEN WORKING ON A TEAM

Trinh, a CFP® professional, works in her firm's home office, developing Financial Planning recommendations based upon the information that other individuals within her firm collect from Clients. Trinh is developing recommendations for Steven's Clients, Cindy and Terry. Steven obtains from Cindy and Terry their responses to the firm's Financial Planning questionnaire and some documents that Steven requested. Steven sends the documents and questionnaire responses to Trinh and asks Trinh to provide her Financial Planning recommendation(s). Trinh reviews the information and notices that Cindy and Terry have two investment accounts at another firm that constitute a significant portion of their net worth. However, the account statements are two years old and thus are outdated. Trinh's firm does not have policies and procedures for handling this situation.

QUESTION:

What should Trinh do?

RESPONSE OPTIONS:

A. **Use the asset values from the statement Steven obtained from his Clients to develop the Financial Planning recommendation(s).**

B. **Inform a supervisor that Steven failed to explain to his Clients how to properly fill out the questionnaire and gather documents.**

C. **Inform Steven that the statements he obtained are outdated and ask him to obtain current information about the two accounts.**

D. **Use the asset values from the statements and tell Steven to disclose to the Client that the Financial Planning recommendation(s) are based upon the information that the Client provided.**

Best Response: Response C is the best response. This case study involves the Fiduciary Duty (Standard A.1.) and Step 1 of the Financial Planning Process: Understanding the Client's Personal and Financial Circumstances, Obtaining Qualitative and Quantitative Information (Standard C.1.a.).

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. The Fiduciary Duty includes the Duty of Care, which requires a CFP® professional to act with the care, skill, prudence, and diligence that a prudent professional would exercise in light of the Client's goals, risk tolerance, objectives, and financial and personal circumstances. When providing Financial Planning, a CFP® professional also is required to follow the Practice Standards for the Financial Planning Process. The first step in the process is Understanding the Client's Personal and Financial Circumstances, which includes Obtaining Qualitative and Quantitative Information. A CFP® professional must describe to the Client the qualitative and quantitative information concerning the Client's personal and financial circumstances needed to fulfill the Scope of Engagement and collaborate with the Client to obtain the information.

In this instance, Trinh is developing Financial Planning recommendation(s) based upon the information that other individuals in the firm have obtained from the Clients. Therefore, Trinh's ability to fulfill the Scope of Engagement, and to act in the Client's best interests in accordance with her Fiduciary Duty, depends on the work of her colleagues. When a CFP® professional is working with other individuals within a firm as part of a team that is providing services to a Client, the Fiduciary Duty requires the CFP® professional to take reasonable steps to ensure that the Client is receiving Financial Planning that is in the Client's best interests.

In this instance, the CFP® professional first should determine whether the CFP® Professional's Firm has policies and procedures that apply to the situation. In the absence of such policies and procedures, a CFP® professional should inform the other individual within the firm who is providing services to the Client that the CFP® professional believes that updated financial information may be needed for the CFP® professional to provide Financial Advice that is in the Client's best interest and explain the basis for the CFP® professional's belief. The CFP® professional should discuss with the other individual how the services may be provided in the best interests of the Client.

Here, Trinh's firm does not have policies and procedures for handling this situation. Therefore, Trinh should communicate with Steven to resolve the situation. Trinh should explain to Steven that she does not believe she can develop the Financial Planning recommendation(s) until she has reasonably current information about the two accounts, and recommend that Steven obtain more current information. She also should give Steven the opportunity to explain why it would be reasonable to use outdated statements for the services. If updated information cannot be obtained, and the Client reasonably has directed the firm to proceed with the services based on the information provided, then Trinh may proceed to do so.

Response A is not the best response because the information is outdated and the firm may be able to obtain current information. It is unclear from the fact pattern whether Trinh may provide the recommendation(s) without obtaining current information. If the information is of a type that is currently available, and this information is necessary to provide the Financial Planning recommendation(s) in accordance with the Fiduciary Duty, then Trinh must obtain reasonably current information to do so, unless the Client reasonably has instructed the firm to proceed with the information provided.

Response B is not the best response because Trinh does not know whether Steven's instructions to the Clients were improper, Trinh may ask Steven to obtain the information from the Clients or another service provider, and it is premature for Trinh to involve a supervisor.

Response D is not the best response because disclosure does not eliminate Trinh's Fiduciary Duty. To act in the best interests of the Client, Trinh must act with the care, skill, prudence, and diligence a prudent CFP® professional would exercise in these circumstances. That requires obtaining reasonably current asset values before developing the Financial Planning recommendation(s) or determining whether the existing information may be used. If Trinh is able to provide the Financial Planning recommendation(s) in accordance with the Fiduciary Duty without obtaining reasonably current values for the two accounts, then before or when providing the recommendation(s), Trinh should inform Steven that she is relying upon the information that has been provided and that the lack of current information about the value of the two accounts may limit the Financial Planning Recommendation(s).

Relevant Standards and Definitions: Fiduciary Duty (Standard A.1.); Step 1 of the Financial Planning Process: Understanding the Client's Personal and Financial Circumstances, Obtaining Qualitative and Quantitative Information (Standard C.1.a.).