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Are Brokers Greedy Scumbags?

By Jonathan Henschen, CFS

A recent financial news program highlighted a comedy competition held at Gotham Comedy Club in New York called "Funniest Person in Finance." One of the standout comedians was a financial advisor, Greg Cantone. When commenting about all the complaints there are about how people in finance make a lot of money, Cantone announced, "Well I've got news for you Gotham…we do!"

Cantone offers no apology for making a good living. He takes aim at other high-end professionals, everyone from nurses to NFL kickers, for example, "You never hear anyone complain about them making a lot of money, do you? The man kicks a leather meatloaf… with his foot… once a week! But if for some reason, I help a family plan their retirement, send their kids to college, and pay off their mortgage, I'm an a**hole!" (You can see his act on YouTube. Warning: this is an adults-only comedy act; don't let your children watch.)

In our daily recruiting conversations with advisors, life stories are rife with biases against our profession. For example, there's the minister who said he felt God's calling to become a broker, only to encounter considerable pushback from his missionary father-in law who felt he was entering a profession that was essentially the devil's playground.

Then there's the advisor who grew up in a multi-generational and devoutly Democrat family. Several relatives shunned him when they discovered that he had not only become (gasp!) a Republican, but also a stock broker, a profession they equated to being full of "greedy scumbags."

Let's Look at the Actual Numbers

Our profession certainly takes a hit when it comes to media attention. Negative stories on the Bernie Madoffs of the world get center stage and Hollywood projects us as a sinister industry through the lens of movies such as Wall Street and Boiler Room, while the extensive public good as a result of our services goes without mention. Nor does it help when regulators and securities attorneys perpetually hang out the dirty laundry and drill down deeper into every aspect of our business, an industry that is already the most regulated of any.

Back in 2005, I reviewed some statistics about compliance marks for our industry, so this October I attempted to get more recent data from FINRA. It took two phone calls to find the name of the contact that handles these statistics. When I called to request the data, this key person's secretary held her hand over the phone and had a conversation with someone else in her office. After a few minutes she asked me more about how I planned to use the statistics, then had another clandestine conversation. When she finally got back with me she said they don't keep such statistics and couldn't help me.

Fast forward one month when an article appeared in *The Wall Street Journal* on Nov. 21 entitled "FINRA is Cracking Down on 'High-Risk' Brokers." Pretty inflammatory stuff. Yet upon a full read, what the article's statistics and research actually revealed is that our industry, on a compliance basis, looks very good. Here's a look at the numbers:

- Of the 634,955 brokers licensed by FINRA, The Journal analyzed 558,245 brokers, or 88%.
- Of these 558,245 reps, 487,480 brokers had clean compliance records (87%).
- 67,650 reps had one to four disclosures, which is a bit over 11% of those analyzed.
- 2,695 brokers, or less than 1%, had 5 to 10 disclosures.
- 420 brokers, or less than half a percent, had 10 or more disclosures.

Despite the far-reaching headline, this article focused on the segment that FINRA perceives as "rogue brokers," those who have 10 or more marks. As an industry, I think we welcome the uncovering of the less than half a percent of reps that are hiding under the radar. However, the real story here is that 98.5% of the industry's advisors are not problematic.

Interpreting the Marks

As part of our recruiting process, we look over rep compliance records on a daily basis. When I see reps in the group with one to four disclosures, it's important to look at what type of complaint those marks actually represent. It is very common to see customer complaints that are denied or essentially nonevents. Also common are company policy marks that were put on advisors' record when they left a firm. These company policy marks are often a punitive response to the rep's departure.

Customer complaints related to market loss have become a cancer in our industry. They are also a major profit center for securities attorneys who fish for clients who lost money in a down market and promise to get them retribution. Here's the point: when you have a rep with three to four marks on their compliance record, it's not unusual for one to two of these marks to be irrelevant.

When I brokered in the '90s, you'd hear wirehouse branch managers make comments such as, "If a rep doesn't have a ding or two on his record, he's probably not aggressive enough." Today by contrast, most firms will only bring on reps with one to two marks, while some insist on a totally clean record. In the future we may see firms restrict new hires to only those reps that can walk on water or are clairvoyant, with the ability to foresee market corrections and avoid market loss to their clients, thereby avoiding customer complaints.

Experienced advisors increasingly voice that they are a bit paranoid, needing to fire clients that they perceive as problematic (potential customer complaints), which, sadly, is just being prudent in our current regulatory quagmire.

Who's Really Rogue, the Brokers or the Regulators?

For advisors who have been in the industry for 20-30 years and have maintained a clean compliance record, my congratulations for a job well done. I'm grateful to the *WSJ* for bringing these statistics to light, and not really surprised at FINRA's resistance to disclosing such information to me, for such information would not be in their interest to disclose. FINRA, like attorneys, justifies its existence by dragging our industry through the mud. If we were to focus on the 98.5% of our industry that look good on a compliance basis (especially the 87% that have clean records), then it might actually show the regulators to be out of balance and extreme in their actions.

Why are they placing more and more rep disclosure on the FINRA website and increasing the frequency of new rules and regulations as never before? The heavy hand of regulation affects not just problematic brokers, but all brokers, so the 87% suffer for the actions of the 1.5%.

"Some regulation is useful," says investigative reporter and author John Stossel. "But when we passively accept government regulation of everything, thinking we're protecting people from evil corporations run amok, we're really making life harder for ordinary people."

Every profession, from cab driver to florist, is now burdened with complex rules. We, in financial services, are just numb to it because we've been in the crosshairs for so long.

The meat and potatoes of our industry are financial advisors building their practice through education, obtaining designations, many hours consulting with clients, marketing themselves and making a better financial life for those they serve. As Cantone would say, "Help a family plan their retirement, send their kids to college and pay off their mortgage." What an honorable guy. Also honorable is that only 1.5% of our industry is problematic and 87% have clean records.

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