

**Statement of Judy VanArsdale**

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**Hearing on the Department of Labor's Proposed Fiduciary Rule**

**Before the Subcommittee on Oversight of the House Ways and Means Committee**

**September 30, 2015**

Chairman Roskam, Ranking Member Lewis, and Members of the Committee, I am Judy VanArsdale, co-owner of enRich Private Wealth Management and a financial advisor affiliated with LPL Financial LLC. My business is based in the Chicago area. I am grateful for the opportunity to testify at this hearing before the Subcommittee on Oversight. I am excited to discuss the work I do every day to help my clients save for their futures and to highlight the ways in which the U.S. Department of Labor's ("DOL") proposed fiduciary rule could impact my work and the ability of millions of Americans to save for their retirement.

**I. Introduction**

Fifteen years ago, I was a corporate executive in the pharmaceutical industry. I was successful, but unfulfilled and decided to become a financial advisor to help individuals and families pursue their financial dreams. Today, I am the co-owner of enRich Private Wealth Management. I have over 1,100 clients. These clients hold an aggregate of over 2,500 accounts, and over 800 client accounts are under \$25,000. From young teachers just starting out to executives in the prime of their careers; from small business owners to folks in retirement; the one thing my clients have in common is that they want to be proactive and engaged in the creation of their financial plans and goals. It is with this in mind that I educate and empower my clients to have financial security.

I am a proud small business owner, and I am thrilled that my small business is able to make a difference in the lives of so many individual investors. I would not be able to do this very important work without the critical support from my partner, LPL Financial. LPL provides me with back-office tools and resources, allowing me to spend more time building relationships with my clients and discussing their financial goals.

I am here representing myself today to talk about my business and the many clients that I serve.

## **II. Support for the Best Interest Standard**

I believe firmly that we should put clients' interests first, and I believe in the best interest standard. In my mind, this has never been the debate. Every day, I work hard to advise my clients with their best interest at the forefront of my mind.

My concern is that the DOL's proposed rule could create unintended consequences that would make it harder for me to provide the services that I currently offer and harder for my clients to access my advice. Here is why. In order for me to serve my retirement clients using the brokerage model, I would have to satisfy the requirements of the DOL's proposed Best Interest Contract (BIC) exemption. Based on my understanding of the BIC, satisfying its requirements would be exceedingly challenging operationally, and would create problematic new liabilities.

The sad reality is that if I am unable to use the BIC exemption and thus unable to provide brokerage services to my retirement clients, my clients with small accounts could be hurt. Those clients may not have access to advisory services because their accounts are small. If they lose access to brokerage services, they may lose the ability to get personal assistance with their retirement accounts.

It is important that we create a rule that will allow financial advisors to provide critical brokerage services to our clients, as these services are often the best mechanism for providing personal advice to small accounts. I am concerned that without a workable solution, many small accounts will not be serviced; and these are the people who often need my help the most.

## **III. How I Serve My Clients Today**

It might be helpful to describe how I interact with my clients today.

During my first meeting with a potential client, I learn about the client's complete financial picture. I will ask about her goals and aspirations – is retirement the sole priority? Does she need to save for her children's education? Does she need to purchase a home? I encourage potential clients to ask me how and why I should be paid, if they can manage accounts online why pay an advisor, what happens if the

market plunges before they retire or send their children to college, how will they protect themselves from the rising costs of healthcare, and other questions.

If the relationship is a fit, I will work with my client to develop and implement a plan. I will recommend an investment strategy that will help my client achieve her goal. I will walk my client through the process of opening accounts. I will speak with her about the fees she will pay for the products and services I recommend. Once I have set up my client with a plan, I follow up with her as needed. I encourage her to reach out to me if there is ever a significant change in her family or financial situation so that we are able to reassess her plan.

#### **IV. How the Proposed Rule Could Hurt Access to Financial Advice**

When I meet with clients to view their financial picture or to reassess their strategic plan, I focus on their overall portfolio, investment objectives, and financial needs. If the DOL implements its rule proposal in anything close to its current form, as noted, I might not be able to serve clients with small accounts with respect to their retirement needs. I believe in clear simple disclosure; the BIC exemption requires many costly complicated disclosures and requirements that could prevent timely execution of trades. In addition, the lack of clarity in the rule proposal and the new exposure to state law class action lawsuits creates an increased risk of litigation. I am a small business owner and I employ five women in my office. I have great concern over subjecting my business to increased business and litigation risk.

Without a workable solution, small businesses like mine may not feel comfortable using the BIC exemption, and we would be restricted from serving retirement brokerage accounts. Under this situation, I would be able to discuss with clients their advisory accounts and their brokerage non-retirement accounts, but not their brokerage retirement accounts. This is not a way to put a client's best interests first. For certain larger accounts, if appropriate for the client and the circumstances, as noted, I could continue to serve the accounts if the clients were interested in moving to an advisory model.

The DOL offers robo adviser services as an option for small investors. The DOL has also indicated that robo advisers would provide less expensive advice. If the proposed rule is implemented, what would happen to the man in his fifties who recently contacted me? He thought his pension would be enough for

retirement, but realized it is not. He is concerned about the anticipated changes to the current pension system in Illinois and wants to know how to be prepared. I was able to get him started on a savings plan. I also helped him figure out what questions he needs to ask about his pension. Would the robo advisor understand how school district contracts work and how the pension changes may affect the client? A clear understanding of my client's environment and circumstances is a major reason why my clients choose to work with me.

Indeed, during the market volatility event in August, I spoke with many clients concerned about their accounts. Could a robo advisor help clients who want to cash out accounts when the market drops? Could a robo advisor help a young investor set up an IRA, and figure out how to allocate money from her raises into her retirement savings, and how to save additional funds so she can move out of her parent's home? Could a robo advisor help the woman who at 53 finds herself a widow? She will need to make critical financial decisions at a time when her mind isn't very clear. An algorithm does not take into account the need for human interaction and understanding, and sometimes my investors just need to know I can help in a time of personal crisis.

## **V. A Way Forward**

As I have said before, I believe in a best interest standard that is applied across all accounts. I also believe the challenges with respect to the proposed DOL rule may be effectively resolved either through significant revision of the current rule proposal or legislatively in a bipartisan manner. I do think that a rule proposed by the SEC would be beneficial as it would govern all brokerage accounts, and not just retirement accounts.

I am a strong proponent of clear and understandable disclosures. I would embrace a rule that would require simple, digestible disclosures that make it easier for investors to understand what they are purchasing and how much they are paying. I would support the requirement of a new short form disclosure that would explain in plain English the services being provided, the potential conflicts of interest, and the range of compensation for each product that can be sold. This form could then be

combined with a requirement to provide clients with an annual disclosure document (similar to the current form ADV on the advisory side) that would set forth conflicts of interest in greater detail.

## **VI. Conclusion**

Fifteen years ago, I left corporate America to serve my community and help individual investors make a better life for themselves. This is my life's work, and I have a great passion for what I do. As many have said before me, we are now at a moment of great opportunity. Let's all work together to craft a fiduciary rule that is workable and protects the best interest of all investors.

Thank you so much for your time. I am happy to answer any questions you may have.