

Fiduciary Standards Board

Briefing Paper

THE FIDUCIARY'S EXISTENTIAL ROLE

For a fiduciary to be of value to the society, community, industry and beneficiaries of fiduciary responsibility, the fiduciary must exist.

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The continued existence of fiduciaries has been presumed in the dialogue with insufficient consideration given to the potential for obsolescence of the fiduciary role. The existential question in considering the role of a fiduciary is simply "why?"

Why would a rational person act in the interest of another? In examining this question, the issue of sustainability becomes evident. The ultimate consequence, if the fiduciary obligation is self-sacrifice, is obsolescence. And if the fiduciary does not survive, he/she can no longer act in another person's best interest.

Existence must therefore be the foundation to any fiduciary policy, law or regulation aimed at the noble goal of protecting the public.

We learn from the laws of nature that there is a finite lifespan that can be shortened or lengthened but ultimately must be reproduced. The fiduciary has a finite lifespan in that role and must also be reproduced.

Assuming that the fiduciary plays a valuable role then policies, laws and regulations must be vigorous about protecting the species known as fiduciaries.

Shortening Fiduciary Lifespan

Today's fiduciary is faced with burdens of complying with regulations and the threat of litigation that are aimed at protecting the public. These burdens are the result of efforts to ensure that the fiduciary does act in the interest of those he/she serves.

There are circumstances when it is desirable to end the fiduciary lifespan. Fiduciaries that use their position of trust to the detriment of those being served should be the target of policies, laws, regulations and litigation. These are the undesirables.

The burdens that shorten the desirable fiduciary lifespan come in two forms. The first burden is that of human failure and the second is compensation.

When the consequences of human failure are disproportionate to the level of error that can be expected, the fiduciary lifespan ends. Careful consideration must be given to aligning the nature of consequences to the nature of the fiduciary failure. It is also essential for the fiduciary to take reasonable steps to avoid such failures. Developing a careful balance between tolerance for failure and steps to prevent error can extend the fiduciary lifespan.

Compensation for the fiduciary appears superficially to be in conflict with the interest of the person being served who pays the compensation. This view is not only superficial, it is wrong. It is fundamentally flawed to argue that lower compensation is in the interest of those being served because without adequate compensation the service would eventually diminish and end the fiduciary lifespan. Fiduciaries must be compensated at a level that does not shorten the fiduciary lifespan.



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Lengthening Fiduciary Lifespan

A fiduciary will want to remain in that role as long as it presents the best available alternative and it is in society's best interest to extend the fiduciary lifespan. The desire to remain a fiduciary is enhanced by the rewards and respect that the role receives.

The primary fiduciary lifespan extender is the ability to make progress in the role. The desire to grow and expand is as evident in fiduciaries as in any other area in society. Fiduciaries should be able to visualize and work towards increased responsibility, stature and compensation.

Another leading contributor to the increased fiduciary lifespan is the social standing of the fiduciary. If viewed as a highly valued role that garners the respect and admiration of the society as a whole, the fiduciary lifespan is expanded.

The role of fiduciary should not be treated as a penalty to be avoided but a privilege that is earned. This respect and admiration is improved by limiting the role of fiduciary to only those who meet a high standard of excellence.

It is necessary to provide these and other structures that lengthen the fiduciary lifespan.

Reproducing Fiduciary Role

With fiduciaries as with nature, a species must expand or it will disappear over time. It is therefore essential to attract and develop new fiduciaries. The recruitment and training required to expand the ranks of fiduciaries is essential.

Recruitment requires articulating an attractive role that provides a comfortable living and public respect and admiration. There needs to be evidence to support such a vision and that can be found from among today's successful fiduciaries.

The training must embody standards that support the public respect and admiration of the fiduciary role. In addition to basic skills in the area of practice, the fiduciary must be knowledgeable of the practices and tools used by successful fiduciaries.

Conclusion

The fiduciary role is a fragile one and should be altered with great caution. Arbitrary and myopic changes that add large numbers to the ranks of fiduciaries or policies that end the fiduciary lifespan will produce the unintended consequence of lowering quality standards and replacing the most competent fiduciaries with those ill-equipped to assume such a responsibility.

About FSB

The Fiduciary Standards Board (FSB) is a non-profit organization with the purpose to promulgating fiduciary standards. FSB is the sponsoring organization of the Registered Fiduciary (RF™) that identifies those professionals who maintain a fiduciary standard of care in all dealings with the public.