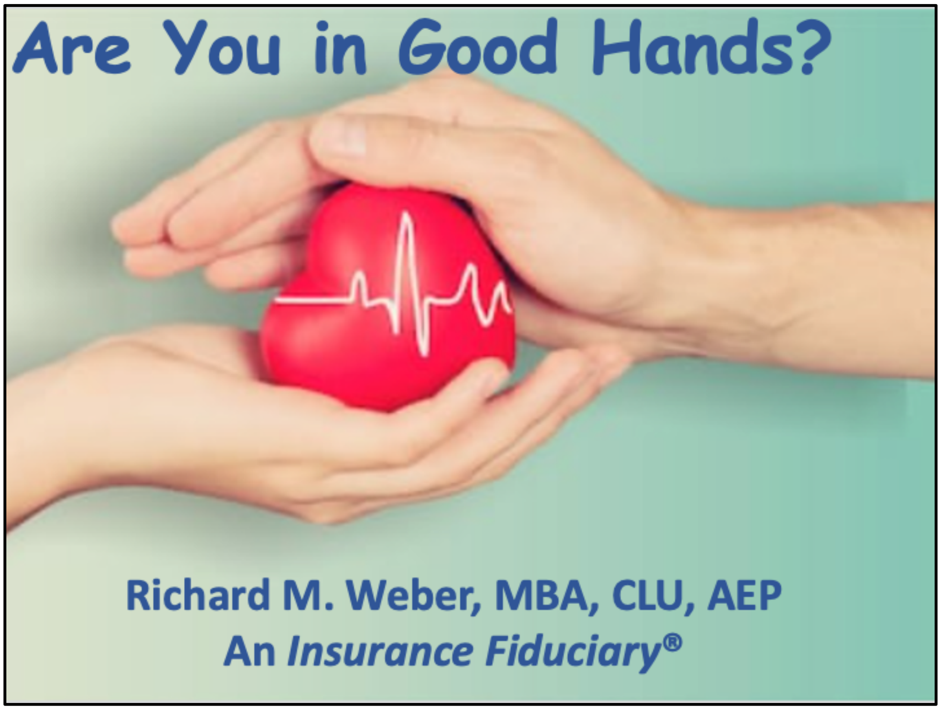

Are You in Good Hands?
Richard M. Weber, MBA, CLU, AEP
An Insurance Fiduciary®


Are You in Good Hands?
An exploration of suitability
and client best interest in the sale
and purchase of life insurance


Are You in Good Hands?
And address: Why should I care?!

If it ain’t broke …

But it IS “broke.” Life insurance policies are flying off the shelves with *huge* premium commitments in favor of big, Roth-like benefits for retirement.

The problem – the policies are so complex that very few agents fully understand them.

Clients are not able to assess the risk they’re taking in favor of the opportunity they seek.

IUL Policies unlikely to achieve their expectations.

If it ain't broke …

- Multipliers
- Bonuses
- "Trust me"
- Favorable tax laws could change
- How crediting rates of 5.76% become 14%

And in the word of the author of New York's Regulation 187 "… these products are so opaque that we [regulators] have to do something."

- The 55%+ slide in the DOW from Fall 2007 to early March 2009 was a scary ride to all of us
- The Treasury and regulators wanted to prevent another event like the Great Recession
- “Dodd Frank” and the Department of Labor’s efforts were examples of “moving the puck” forward but NOT themselves resulting in landmark changes

The notion of best interest for the sale of investment and insurance producrs began when Dodd Frank required the SEC to consider the HARMONIZATION of the standards of care between *Advisors* and *Stock Brokers.* But the political winds changed in 2011 and harmonization was – for the moment – shelved.

And now there is New York Regulation 187 – for the first time mandating suitability and a client's best interest – and tbe biggest rule change for producers and advisors since regulations responding to the 30's Great Depression.

- Will Massachusetts, New Jersey, and California follow?
- 25% of the market!

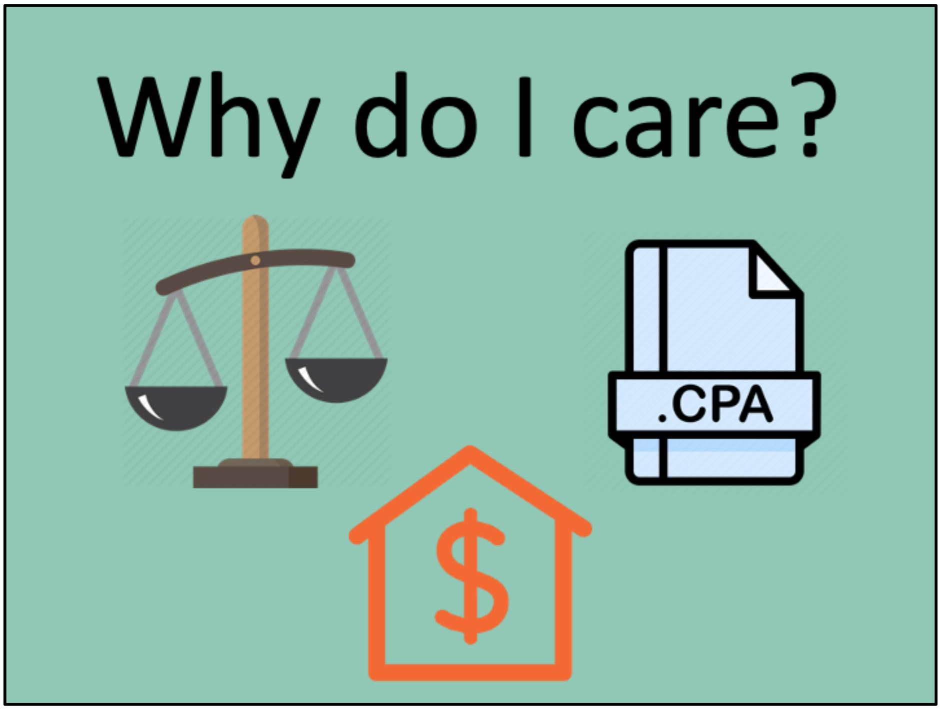
CFP BOARD

- All activities are covered by “F2”
- It’s not just what you DO discuss – but what you DON’T discuss in comprehensive planning
- Reveal discussion items presenting a conflict of interest
- Offer more than one solution

7 Stages of Grief

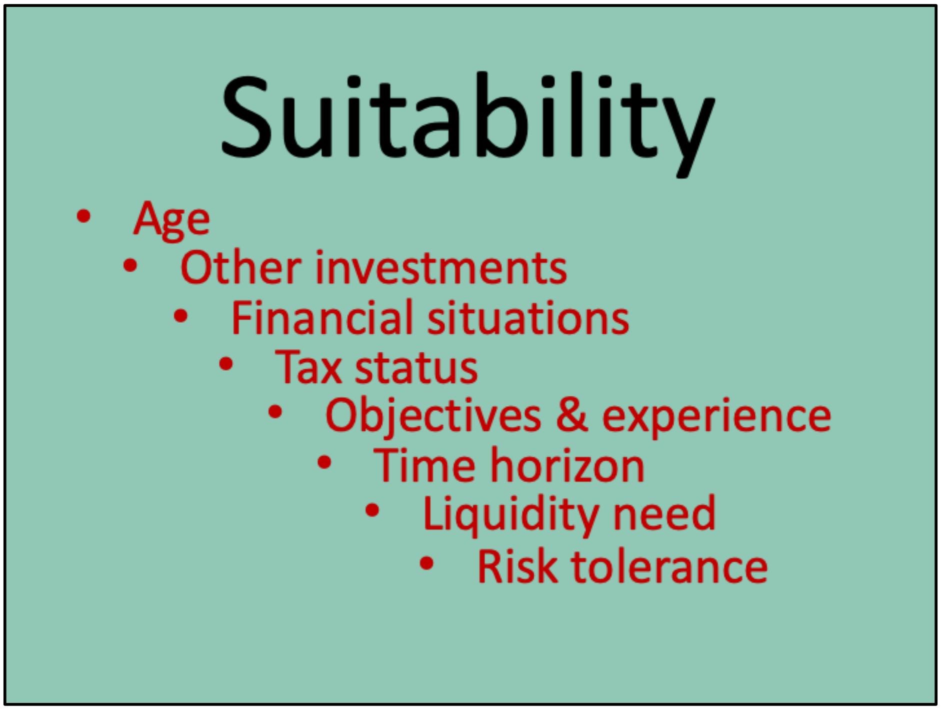
(Modified Kubler-Ross Model)

Shock*	• Initial paralysis at hearing the bad news.
Denial	• Trying to avoid the inevitable.
Anger	• Frustrated outpouring of bottled-up emotion.
Bargaining	• Seeking in vain for a way out.
Depression	• Final realization of the inevitable.
Testing*	• Seeking realistic solutions.
Acceptance	• Finally finding the way forward.

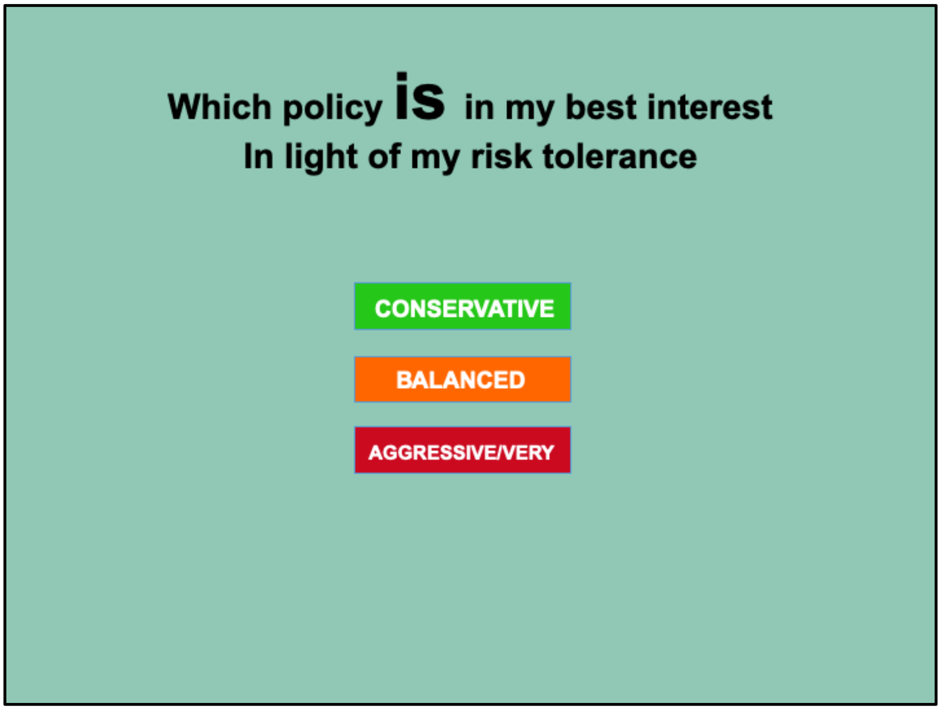


How would you imagine this continuing trend would affect the non-agent members of the Estate Planning Council?

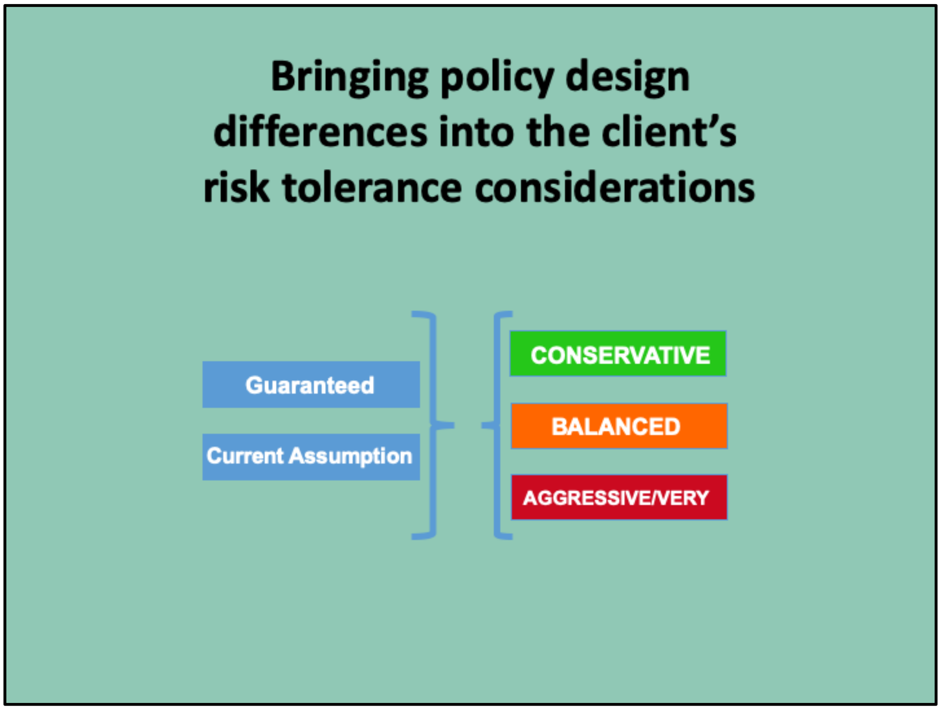
- Do the right thing / GET the right thing for clients
- New liabilities could come back at you from your own Associations
- I've recently worked on several cases here in Irvine as an expert witness in which ALL the allied advisors were named as defendants – not just the insurance agents!
- Need to learn these issues to work effectively with licensed professional agents



- "Classic" elements from FINRA
- A SUBJECTIVE process – requiring skill, care, diligence and good judgment of a professional
- Is it tolerable as professionals that there's no process by which similar situations will be solved with similar solutions?
- OUR process uses these elements and a focus on Risk Tolerance



… to which we can then consider the client’s risk tolerance as part of the process of answering “which policy is in my best interest?” Conservative / Balanced / Aggressive / Very Aggressive



Bringing policy types and risk tolerance together

Which policy is in my best interest?

Style comparability **CONSERVATIVE**

Participating Whole Life

"Intolerant of volatility and seeks guarantees"

- Little or no management
- Underlying investments U.S. and High-Grade Corporate Bonds
- Premiums guaranteed
- Policy is guaranteed
- Upside potential in dividends - but not guaranteed

Which policy is in my best interest?

Style comparability → **CONSERVATIVE**

Guaranteed Death Benefit UL

"Intolerant of volatility and seeks guarantees"

- Little or no management
- Death benefit and premium obligation are Guaranteed
- Bare bones: what you see is what you get
- No upside for death benefit
- Lifetime term insurance

Which policy is in my best interest?

Style comparability → **BALANCED**

"Traditional" Universal Life

"Tolerant of modest volatility and willing to accept fewer guarantees in favor of premium payment flexibility"

- Premium sufficiency risk transferred to policy owner
- **Illustrated premiums will not sustain; premiums & policy have to be managed**
- No ability to manage policy owner's risk (premium sufficiency) other than by paying more premium

Which policy is in my best interest?

Style comparability → **AGGRESSIVE / VERY**

Variable Universal Life

"Tolerant of volatility and willing to do without guarantees in favor of premium investment opportunity"

- Premium sufficiency risk transferred to policy owner
- **Illustrated premiums will not sustain; premiums & policy have to be managed**
- Professional management of sub-accounts imperative

Which policy is in my best interest?

Style comparability → **Passive Aggressive**

Index Universal Life

"Intolerant of volatility but drawn to the idea of upside with no downside"

- Premium sufficiency risk transferred to policy owner
- **Illustrated premiums will not sustain; premiums & policy have to be managed**
- Professional management of sub-accounts imperative

- An attitude
- Can you tell someone THEIR best interest?
- Becoming an “Expert Facilitator of Decision Making”
- Do you have an IPS? Consider an LIPMS!

"IPS"

Evidencing Care, Skill and Caution in The Management of ILITs
(Part 3 of 4)

by Kathryn A. Ballsun, *Los Angeles, California*
Patrick J. Collins, *San Francisco, California, and*
Dieter Jurkat, *San Raphael, California**

ACTEC Journal – 2006

The analysis is intended to help document a level of care, skill and caution consistent with a prudent decision-making process under the Prudent Investor standard.

And the Rabbit Hole in all of this is that it’s not the professionals or their carriers who will ultimately define what is SUITABLE and how to deliver the products and services in a way that is in the sole best interest of the client – it will be the Plaintiff’s Bar – 5 to 10 years from now!

HELP!

Here are some of our considerations as we consult with clients as Insurance Fiduciaries®

What IS a Best Interest?

Among other issues of confusion, there could be different – SIMULTANEOUS – standards!

- Insurance agents in NY, NJ, MA, and CA
- Members of FSP & CFP Certificants
- Trustees under UPIA
- Attorneys, CPAs, and Trust Officers

Generally one serving a client's best interest …

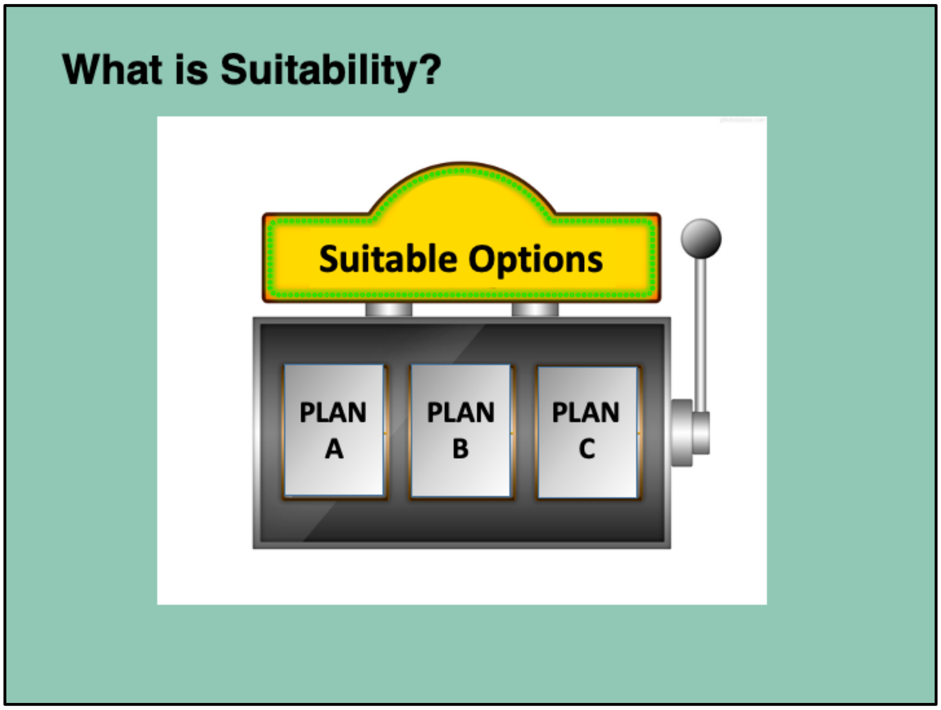
… includes these common elements:

1. **Putting the client's interest *first* (also referred to as *loyalty*)**
2. **Acting with prudence**; that is, with the *skill, care, diligence* and *good judgment* of a professional;
3. **Not misleading** clients; providing conspicuous, full and fair disclosure of all important facts;
4. **Avoiding conflicts of interest**;
5. **Fully disclosing** and fairly managing, in the client's favor, any unavoidable conflicts.
6. **And be able to PROVE IT!**

What is BEST interest?

Let's get a little more practical. What does this all mean?!

Consider the duty of a fiduciary as the **Three Bears Rule**: With suitable recommendations, provide *disclosure* that is not too little - not too much - but in an amount that is JUST RIGHT so the client can make a decision that SHE believes is in her BEST interest!



To serve the Client's Best Interest with insurance and annuity product – think of a familiar OUTPUT DEVICE reconfigured to process *suitable options* for clients to think about / discuss / evaluate / take action!

Issues that invite falling through the LIABILITY rabbit hole …

Value of the investment/policy declines or doesn't meet expectations;

Speaking of Rabbit Holes …

Issues that invite falling through the LIABILITY rabbit hole …

Another advisor causes a "disturbance in the force" by suggesting you weren't offered the BEST product available – and/or paid too much for it – and/or were charged too high a commission/fee;

Issues that invite falling through the LIABILITY rabbit hole …

Family member (i.e. beneficiary) complains that the inheritance isn't as big as expected – (or as big as they hoped!);

Issues that invite falling through the LIABILITY rabbit hole …

Suzie Orman implies you made a bad choice.

Rabbit Hole triggered by claim of customer…

- **Failure to disclose material conflict.**

BEST INTEREST Rabbit Hole

- **Failure to disclose material conflict**

BEST INTEREST Rabbit Hole

- Product type (NLG vs IUL vs WL)

BEST INTEREST Rabbit Hole

- **Product differences (IUL "A" vs IUL "B") – including financial strength differences**

BEST INTEREST Rabbit Hole

- Product compensation universes (AUM vs Annuity)

How are you doing?

(Modified Kubler-Ross Model)

Shock*	• Initial paralysis at hearing the bad news.
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Some things to consider

Your current business model

1. What will have to change to accommodate the new rules?
2. Will that be OK?!
3. What other business models might be compatible with how you would like to operate?
4. Are you willing to make the transition?

Some TAKE AWAYS

1. Talk to clients; re-clarify their objectives
2. Specifically focus on ILIT clients – not just the insured, but also the trustee
3. Agents: these products don‘t work the way you expect them to!

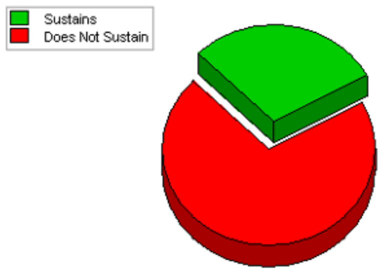
IUL Illustration

- Assume a very healthy 45-year-old male
- Paying $25,000 annually for 20 years
- "Solve" for maximum annual policy loans beginning at age 65 – taken for 20 years
- Increasing death benefit to age 65, leveled thereafter.

The illustration specifications target $100,000 of account value at age 121 and then calculate the minimum possible death benefits to avoid taxable events.

IUL Illustration

Random Trials - Index Universal Life



Policy Specifications
Death Benefit: $ 1,526,000
Funding Premium: $ 25,000.00
Guaranteed Minimum Rate: 0.00 %
Crediting Rate Based On: S&P500 1-year Index
Cap / Participation Rate: 9.00 % / 100.00 %

Max. 5-year Rolling Lapse Interval: 89 to 93

Policy Performance Statistics

Trial Illustrations:	1,000
Trials Sustaining (29.7 %):	297
Life Expectancy Death Benefit (Age 88):	$ 2,328,000
Age 100 Death Benefit:	$ 3,275,000
Trials NOT Sustaining (70.3 %):	703
Age first Lapse:	85

Investment Statistics

Average Arithmetic Mean:	5.52 %
Average Geometric Mean:	5.66 %
Average Standard Deviation:	1.10 %

Product Illustration policy loans	Assumed 6% Illustration Rate - or rate noted here	Assumed Age 65
A		$100,193
B	5.76%	$ 90,839
C		$ 89,047
D		$ 79,476
E	5.76%	$ 78,024
F		$ 76,212
G		$ 75,662
H		$ 75,511
I		$ 74,772
J		$ 72,830
K		$ 71,564
L		$ 70,120

Product Illustration Change	4% Recalculation Assumed Age 65 policy loans	6% Original Assumed Age 65 policy loans	
G	$50,882	$75,662	-33%
E	$50,208	$78,024	-36%
D	$49,740	$79,476	-37%
H	$48,514	$75,511	-36%
C	$42,478	$89,047	-52%
J	$42,177	$72,830	-42%
F	$40,512	$76,212	-47%
L	$36,646	$70,120	-48%
I	$35,808	$74,772	-52%
K	$29,736	$71,564	-58%
A	$21,728	$100,193	-78%
B	$20,541	$90,839	-77%


When they're running you out of town
Get at the head of the line
and make it look like a parade!

Questions?

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