SPRING 2021

PFAC NEWS

PFAC STATEMENT OF PURPOSE

The purpose of the Professional Fiduciary Association of California is to:

1. Promote high standards of ethics and practice
2. Maintain high qualifications for membership
3. Require and provide continuing education
4. Enhance awareness of and respect for the Professional Fiduciary Association of California and its members
5. Contribute to the development and support of effective regulation, legislation and licensing
6. Promote communication among members to share resources

PRESIDENT'S MESSAGE

by Mark Olson, PFAC President

This last year could have been a big disappointment because there were many unmet expectations. We lost the ability to meet together and for a profession that exemplifies personal contact, some were without a means to connect with our clients. Chapters were put in a holding pattern and we lost the ability to network and gain valuable insight to how to handle cases. My plans of going to various chapter and regional meetings to gain insight to steer PFAC were dashed by lockdowns, purple tiers and take out only. What did happen forged PFAC into a stronger state and national presentence.

Amy, Fred, Tammy and Amanda worked tirelessly to change the conference to a virtual platform and helped other conferences and symposiums do the same. LeAndra (our incoming President) oversaw the completion of the 30 hour pre-licensing course and Finance Certificate education program which gave PFAC's Center for Fiduciary Development a revenue stream that far exceeded our expectations.

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INSIDE THIS ISSUE

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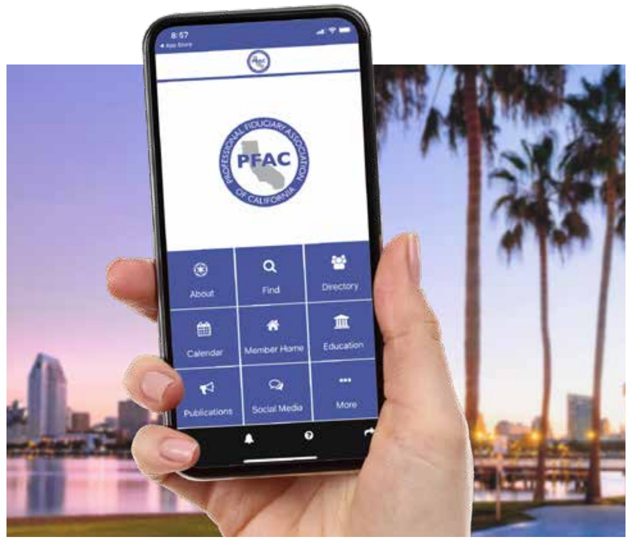
PRESIDENT'S MESSAGE

(Continued from page 1)



The new student and retired memberships made a way for us to keep the wisdom of those who have been a great service to PFAC to an avenue for those interested in our profession to test the waters, get the education they need and become Associate members of PFAC. Student members are a great pool of potential employees to those fiduciaries looking to expand their practice also.

The Communications Committee oversaw the new PFAC App which has now been downloaded by close to 250 have people. Suddenly I don't have to wait to get to my computer to find out what is going on and can access my "member only" info through the App. I can't wait to use it at the conference to help me navigate and win prizes.

Hopefully I will be able to see all of you in August at the Hotel Del Coronado for PFAC's annual conference. So, I got vaccinated just for you! It has been my honor to serve as PFAC's first virtual President and would encourage you to get involved as California moves to reopen fully in June.

FROM THE EXECUTIVE DIRECTOR

Amy Olsen
Executive Director

On April 6, Governor Newsome announced that California will fully open its economy if two criteria are met:

1. If vaccine supply is sufficient for Californians 16 years and older who wish to be inoculated; and
2. If hospitalization rates are stable and low

After more than a year, there is light at the end of a long tunnel of restriction, confinement, and solitude. What does that mean for PFAC? As California counties loosen restrictions on gathering, PFAC chapters can resume in person meetings (under safety protocols) bringing in-person networking back to PFAC. I am eagerly looking forward to PFAC's Educational Conference in August at the Hotel Del Coronado where we can all, once again, share comradery and lively conversation. While our hearts are saddened by the illness and loss of so many over this past year, I hope you share the same excitement and anticipation that I feel at the prospect of gathering together again.

Despite the upheaval of COVID-19, PFAC has continued strong growth with added member benefits and programs while keeping a strong financial position and maintaining collaborative relationships with organizational partners. You will soon be receiving PFAC's Annual Report in your mailbox, but I thought I would take this opportunity to share a few highlights with you as we end the 2020/2021 governing year.

1. Ended 2020 with an all-time high of 871 members.
2. In 2019, PFAC membership approved the addition of new member categories of Student and Retired. PFAC now has 87 Student members and 13 Retired members.
3. Of the 87 Student members, 71 are enrolled in PFAC's on demand fiduciary Pre-Licensing Education Program.
4. Over 300 people utilized PFAC's Fiduciary Academy program in 2020 enrolling in a total of 765 on-demand sessions.
5. Fourteen statewide educational webinars were offered with a total of 2,081 attendees. Of the 14 webinars, 6 were free for members.
6. PFAC implemented a new Mobile App with over 240 users to date.
7. Implemented a direct mail Quarterly Update to keep members informed of significant information to supplement unopened email updates.
8. Planning the 2021 PFAC Conference as a hybrid event, offering both live and virtual attendance options, giving attendance options meeting everyone's comfort levels.
9. Implemented Finance Certificate Education Program for those needing support in meeting core competencies for the Finance Certificate exam with the Center for Guardianship Certification.

It's been an unusual year for all of us and nothing will ever be the same. And sometimes, that's a good thing. The pandemic has been tough, but the experience has encouraged all of us to stretch out of our comfort zones and learn new ways of operating and relating to one another. Rather than focus on the negative aspects of the past year, let's look to what we learned, how we grew, the new skills we acquired, and the new appreciation of relationships and relating in our lives. For me, I optimistically look forward to seeing you—up close and in person—soon.

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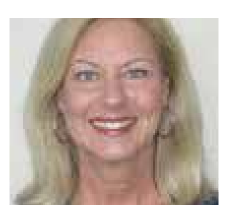

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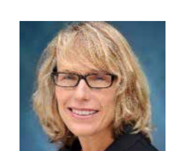

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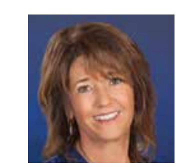

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NEW MEMBER REPORT

PLEASE JOIN US IN WELCOMING OUR NEWEST PFAC MEMBERS!*

*As of April 8, 2021

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Student

Marcia Clark
Student

Linda Farquhar
Student

Duanni Hurd
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Erica Jones
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Yvette Lee
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Nicole Thomas
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Veronica Foster
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Joseph Lee
Affiliate Corp Rep

Elvia Soukup
Affiliate

Ronald Stoffers
Associate

Richard Weissman
General

Daniel Yen
Affiliate Corp Rep

UPCOMING EVENTS

APRIL

SILICON VALLEY NORTHERN REGIONAL WEBINAR

Forms That Function

Wednesday, April 28, 2021
9:00–10:30 AM PDT

SAN DIEGO REGIONAL WEBINAR

Obscure but Useful Probate Code Sections

Tuesday, April 27, 2021
12:00–1:00 PM PDT

MAY

REGIONAL COLLABORATIVE SYMPOSIUM

Day 1
How to Guide for Public Benefits in California

Tuesday, May 4, 2021
3:30–5:15 PM PDT

Day 2
Home Sweet Home

Wednesday, May 5, 2021
3:00–4:30 PM PDT

Day 3
Timing, Accounting & Tax Issues for Finalizing Estates and Trusts

Thursday, May 6, 2021
3:30–5:15 PM PDT

PFAC 2021 ANNUAL BUSINESS MEETING OF MEMBERSHIP

Friday, May 7, 2021
3:00–4:00 PM

JUNE

STATEWIDE EDUCATIONAL WEBINAR

Handling Tangible Personal Property AND A Trip Down the Real Estate Rabbit Hole

Wednesday, June 9, 2021
12:00–1:30 PM PDT

REGIONAL REPORTS

PFAC NORTHERN REGIONAL REPORT

Jean McClune
Northern Region President

Well, we've made it through another Covid-Quarter and spring has never been more exciting to see. Hopefully your clients and you have all had the chance to get vaccinated. It will be precious to hopefully start having chapter and regional meetings again together in the coming months, as well as be together at the conference in San Diego in August.

Welcome to the 14 new members this first quarter. Most of you are student members and we all wish you a great learning journey to becoming a fiduciary. Be sure to contact a chapter near and go and get involved. Attend as many webinars (and chapter meetings once we open up again) as you can…the learning and connections are invaluable. We're all learning all the time from each other.

Many thanks to the chapters who hosted webinars these past months: Sonoma County (January – Special Needs Trust Administration), East Bay (February-Mental Health 101) and Silicon Valley (upcoming April 28-Forms That Function with Lisa Hansen, CLPF).

And we are very grateful to the following who sponsored or contributed teaching at these webinars: Kevin Urbatsch, Merrill Lynch Special Needs Trust Team, Herb Thomas, CLPF & Jeremy Lau of Prudent Investors, Lisa Hansen, CLPF, and Morgan Stanley-Pacific Paragon Group.

Great to see 100+ of us at our Virtual St. Patrick's Day Party. So much fun sipping Irish Coffee, playing fiduciary bingo with caller Fred Eblin, and anticipating those raffle prizes. We are very grateful to sponsors Philips Bonding, First Citizens Bank, Quin Oaks Investment Group, and realtor Andrew de Vries.

Regional Meeting

Be sure to join us on Wednesday, May 5 at 4:30pm, right after the webinar, for our Zoom annual regional meeting. We'll be talking about the year ahead, acknowledging outgoing chapter & regional leadership and welcoming in the new leaders.

Chapter and Regional elections for 2021-22 are taking place as I write this. On behalf of all our Northern Region members **THANK YOU, THANK YOU, THANK YOU** to the 2020-21 chapter leadership:

East Bay – Pam Regatuso (President), Mark Unger (V.P.), Lisa Soloway (Past President & Attorney Appreciation Dinner Chair), Toby Levenson (Secretary), Sharon Duncan (Education Chair), Elyssa Eldridge (Treasurer) and Leslie Byrne (Membership)

Placer County – Kristin Miguel (President), Therese Adams (V.P.), Matt Quentmeyer (Treasurer)

San Francisco – Lise McCarthy (President), Laura Brockwehl (V.P.), Kevin McCarthy (Secretary), Tia Small (Treasurer)

Sacramento – Katherine Cain (President), Mia Ehsani (V.P.), Beth Dean (Secretary), Shannon Downs (Treasurer), John DePiazza (Education Chair)

San Joaquin Valley – Heather Fisher (President)

San Mateo – Kelsey Stiles (President), Erin Markey (Secretary & Education Chair), Karyn Stiles (Treasurer)

Silicon Valley – Eric Hersh (President), Ramji Digumarthi (V.P.), Claire Owens (Secretary), Will Hoggan (Treasurer), Russ Marshall (Education Coordinator), Beverly Bourbon (Education Co-Chair), Stephanie Allen (Membership), Susan Brooksbank (Tech/Web Support)

Sonoma County – Jerry Phoenix (President), Jolynn Lima (V.P.), Heidi Darling (Secretary), Connie Aust (Treasurer), Jacquelynne Ocaña (education chair), Tammy Vonder Haar (Mentoring Chair), Bill Zuur (Past President)

Central San Joaquin – Ronald Dicken (President), Patricia Dicken (V.P.)

And to our **Northern Regional Leadership Team**, I couldn't do it without you – Laurie Jamison (Director), Toby Levenson (V.P.), Barry White (Treasurer), Karen Fisher (Secretary)

PFAC SAN DIEGO REGIONAL REPORT

Susanna Starcevic
San Diego Region Director

San Diego is still looking forward to the day when we can all meet in person over plated banquet style lunches. Until then, on our calendar are two very interesting Zoom presentations:

On April 27, Anne Rudolph of Hughes and Pizzuto is speaking at our regional monthly meeting on Obscure But Useful Probate Code Sections. It is bound to be very informative, interesting and just may solve that problem that you thought you could never solve.

On May 4, we start the 3 day educational symposium encompassing all three regions in San Diego with Kimberly McGhee, Esq. on How To Guide for Public Benefits in California. This is a nuts-and-bolts guide to Medi-Cal, SSI, Section 8 and Regional Center benefits and how to access those benefits.

That Wednesday we follow with our separate San Diego Regional general meeting for: **Review of the Past Year**

- Budget review
- Acknowledgment of outgoing chapter leadership
- Welcoming in incoming chapter leadership
- Announcements about 2021
- Planned events
- Q & A

PFAC SOUTHERN REGIONAL REPORT

Aaron Jacobs
Southern Region President

The pandemic finally seems to be coming under control. Our declining infection rates in California offer hope that we will spring into a summer of reduced restrictions. The state guidance targets June 15th for a full reopening of our economy which means chapter events should be able to restart, provided things go according to plan. With that in mind, the region is throwing a Parisian coming out party, a spring fling, on April 22nd. I encourage all regional members to sign up!

Don't forget to join us for our upcoming regional meeting on Wednesday, May 5th at 4:30pm, right after the webinar. We'll be welcoming in the new chapter / regional leaders and providing you with an update on PFAC.

Thank you to our 2020-2021 Chapter Leadership for all that you have done the past year.

Coachella Valley: Scott Phipps (President), Andrew Harker (V.P.)

Orange County: Laura Lane (Co-President), Rebecca Cote (Co-President),

San Fernando Valley: Pamela Blattner (President), Marla Chaloukian (V.P.),

San Gabriel Valley: Patricia Alexander (President), Sam Thomas (V.P.), John Cooper (Secretary), Denise Klein (Treasurer), Annabelle Wilson (Chapter Rep.) Robert Earnest (Fiduciary Forum Chair)

Los Angeles: Monique Cain (President), Keenan Brown (V.P.)

Long Beach: Stacey Haft (President), Cynthia Troup (V.P.)

I would also like to thank the **Southern Region Board** for all they have done this year: Ron Miller (V.P), Nancy Howland (Director), Monique Cain (Secretary), Stacey Haft (Treasurer)

Here's to brighter days ahead!

ADVANCE YOUR CAREER THROUGH DIGITAL EDUCATION

Advance your professional fiduciary education at your own pace, in your own space. Keep your professional fiduciary education current with these virtual education options through PFAC:

NEW! Finance Certificate Education Program

The Center for Guardianship Certification (CGC) has announced a new Certificate Program to prove your knowledge and expertise in the field of client-focused financial decision-making. The Certificate, valid for three years, provides objective assurance to attorneys, courts, and clients that you have proven financial knowledge in the areas of:

- Special Needs Trusts
- Money Management
- Estate Preservation
- Qualifying and Maintaining Public Benefits
- Investing Assets
- Trust & Personal Property Management
- Understanding Court Supervision

Once you pass the exam, you receive a certificate and a logo testifying to your advanced knowledge.

PFAC has prepared an education program focused on the core competencies covered in the Finance Certificate exam. The program provides 25 CEs of on-demand* education for only $500. That's more than a 50% discount on regular Fiduciary Academy pricing. CLICK HERE FOR MORE INFORMATION

While most classes are on-demand, a few are scheduled as live presentations.

Pre-Licensing Education Program

This program provides the necessary 30 units of approved education to satisfy the licensing requirement for the Professional Fiduciary exam in California. The courses in the program correspond with the core competencies prescribed by the center for Guardianship Certification and PFAC provides links to recommended self-study information round out your knowledge. The program is self-paced, self-directed and includes a one-year Student membership in PFAC (upon approval) and the 4-hour Exam Review course. CLICK HERE FOR MORE INFORMATION

Fiduciary Academy

PFAC offers a host of approved and credited educational sessions through its online Fiduciary Academy. Sessions include both CE and MCLE education with expert speakers from a wide range of fields. Categories include Ethics, Practice Management, Person, Trust and Estate. Upon successful completion, registrants receive a Certificate of Completion for the related credit category. CLICK HERE FOR MORE INFORMATION

Courses are added on a regular basis so check back often.

Finance Certificate Recipients

Congratulations to PFAC members who successfully passed the CGC Finance Certificate exam. The certificate, valid for three years, testifies to the holder's expertise in the field of financial decision-making for those under conservatorship.

- **Megan Boling**
  Sandoval Legacy Group
  Associate Member
- **Jennifer Hans**
  Hans Probate & Trust Services
  General Member
- **Janice Kittredge**
  CSC Fiduciaries Inc.
  General Member
- **Mark Olson**
  Olson Fiduciary Services
  General Member
- **Elaine Watrous**
  Elite Fiduciary Services
  General Member

ACORNS FROM THE OAK TREE

Justin Pribilovics-Wade, CFP® Financial Advisor, Quin Oaks Investment Group of Wells Fargo Advisors

One year ago I was closing in on my first full month of working from home (after being told it would only be two weeks), and we were just a few weeks removed from the stock markets worst performing four weeks since 2008 in which the S&P 500 index declined 32% from its peak on February 19th to the March 20th close. Commodity prices were in a free fall, face masks and toilet paper equally scarce and we all had to shelter in place – causing large sectors of the economy to shut down. Over the subsequent year, many lives were lost to Covid-19, and millions more were negatively impacted by the virus. I remember sitting in my undersized San Francisco apartment, wondering when or if ever we would go back to normal.

Fast forward – it's a year later, and I am still working from my apartment (I have since moved from my shoebox in San Francisco to the East Bay), but I have just received my second dose of the vaccine for the very disease that plagued the world just over a year ago. The marvel of that in itself, a vaccine produced, shots in arms, in a years' time is truly an incredible gift of modern science. California has just announced re-opening plans for the state, and for the first time in a year, I can see a much shorter path to normalcy. We just closed the first quarter of 2021, following one of the strongest bull markets in history and I have once again, been reminded how human resilience remains unmatched to taking on the challenges life can throw at us

Presidential Fiscal Proposal

Recently President Joe Biden proposed a $2.25 trillion spending package over the next eight years built around $1.7 trillion investment in infrastructure and other physical assets along with research and development. Partial financing comes from a series of corporate tax increases approaching $2 trillion over the next 15 years.

Spending	Billions of dollars
Transportation and electric vehicle infrastructure	$621
Housing, school, power and water upgrades	$561
Manufacturing subsidies and research and development (R&D)	$480
Broadband & Job training	$200
Elder and disability care	$400

Corporate taxes	Billions of dollars
Tax rate increase to 28% from 21%	$695
A 15% minimum book tax	$495

This proposal is first of a two part agenda which will be followed by a second bill that will be focused on education, healthcare and childcare set to be up to $2 trillion. This part will be funded by personal tax rate hikes. On the list includes the highest tier tax rate hike – increasing from 37% to 39.6% as well as a higher top tax rate for capital gains and changes to the estate tax. As well there have been conversations surrounding estate taxes with a possible increase from 40% to 45%, a reduction of individual tax and gift exemption from the $11.7 million and even an elimination of the step-up in basis for reducing capital gains subject to the estate tax.

Continued on next page

Looking ahead we believe the process of debate within Congress will have changes to the proposed bill and look somewhat different by the time it is ultimately signed by the President. Of the provisions from the first outline we believe the changes with the highest probability of passing include the higher corporate tax rate, increase in highest personal income tax rate to 39.6% and an increase in the capital gains tax rate to 28% (for taxpayers whose annual income exceeds $1 million). However, we do not see these changes being applied retroactively and will go into place on January 1, 2022. This will allow investors time to make the necessary changes to their portfolios to minimize the impact of the future tax changes as well as take advantage of current laws in place. As this year unfolds it will be important to stay up to date on the progress of these changes.

Market Landscape

After a banner year for risk assets in 2020, the market continued to show signs of strength through the first quarter of 2021 with the Dow Jones Industrial Average up 8%, the S&P 500 up 6% and the NASDAQ up 3% . Cyclical sectors such as energy and financials took the lead in the quarter up both by double digits, compared to 2020 when they were the laggards of the pack. Unsurprisingly both sectors were subject to numerous estimate revisions as Wall Street continues to digest the economic recovery. For the energy sector, one of the large catalysts was the 22% increase in the price of oil, as a reopening economy should increase the demand for 'black gold'. The financial sector also saw an increase due to the prospect of higher interest rates accompanied by higher margins.

Over the past quarter value stocks have out preformed growth stocks (as evidenced by the performance by the NASDAQ and Dow Jones Industrial Average), interest rates and inflation are rising again, and commodity prices are reaching record highs. Many of the previous decade long secular trends have shifted and we are currently at the early stages of a new business cycle and checking all the boxes that align to a strong early cycle recovery. As we look forward to the rest of the year we expect the U.S. to post some of the strongest gross domestic product (GDP) growth we have seen in decades and the market is reflecting this action. Market optimism is high, and economic optimism is even higher as we prepare ourselves to return to a more normal life. While we do know the market tends to be a bumpy road along the way, we are overall, bullish on the equity markets and believe that we will end 2021 as another positive year for risk assets.

Conclusion

On a reflective note, it is truly amazing how much we evolved and adapted over the past year. We saw the emergence of new businesses that allowed us to stay connected to one another, despite being physically distant. New and innovative ways to do normal everyday task became more prevalent. Even eating dinner outside under the warmth of a heat lamp became a welcomed luxury. The challenges we overcame taught us many lessons that will help condition us for the future. I strongly believe that we have once again proven that we can count on human ingenuity and can rely on our ability to come together, to rise to the challenge, and become stronger.

HOLDING FINANCIAL INSTITUTIONS ACCOUNTABLE FOR LOSSES TO FINANCIAL ELDER ABUSE SCAMS

Kathryn A. Stebner
Principal,
Stebner and Associates

Deena Zacharin
Associate Attorney,
Stebner and Associates

Joan believed she had met the love of her life through an online dating site for seniors. After building what she thought was a romantic long-distance relationship by phone, the "boyfriend" began asking her for money.[1] The requests were for a myriad of different reasons and each time he asked, Joan transferred tens of thousands of dollars from her account to another bank account in his name. She was certain he would be moving to her city and move in with her.

Stanley, a longtime widower and volunteer with his church, began getting calls to donate to help build a hospital in Africa for children with AIDS. The calls became more and more frequent and after each call, he would ask his financial advisor to transfer funds to his checking account from which he would wire funds to a party he was told was the corporation handling the donations.

It is estimated that one in five seniors will become a victim of some sort of financial scam in his or her lifetime.[2] As a fiduciary, you are bound to hear about a financial scam at some point in your career and you likely know that these scams are not uncommon and that there is a neuropsychological basis for the elder's behavior.

The California State Legislature has acknowledged the devastating effect of financial abuse on elders and has provided a remedy – including attorney's fees and costs – where it is proven that a defendant is liable for financial abuse. As part of California's Elder Abuse and Dependent Adult Civil Protection Act ("Elder Abuse Act"), financial abuse is defined as when a person or entity "Takes, secretes, appropriates, obtains, or retains real or personal property of an elder or dependent adult for a wrongful use or with intent to defraud, or both" or "assists" in doing this.[3] When the Legislature amended this statute to include "anyone who assists in committing the prohibited acts," it noted that "[t]he changes to the definition are intended to make it easier to prosecute financial abuse of the elderly and dependent adults."[4]

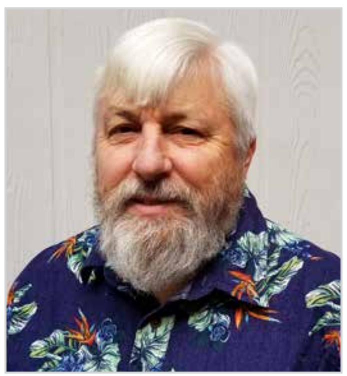
For at least the past decade the federal government has made it clear to financial institutions that they are the first line of defense against financial abuse and have advised the industry to identify the abuse at its outset, before the elder's assets have been dissipated.[5] Several federal agencies have given the financial institutions the information they need to protect their elderly customers. They should have policies on preventing, detecting and responding to financial elder abuse. They should be training their frontline bank staff and corporate fraud detection departments on the red flags to watch for to prevent the depletion of elderly clients' life savings. Unfortunately, many financial institutions fail miserably at these protective measures.

Generally, it is after the elder client has been scammed of a substantial portion of his or her life savings that a fiduciary is asked to come in and protect the client. Fiduciaries should be aware of the Elder Abuse Act as a resource in attempting to recover funds for your clients.

1 The names and facts in this article are an amalgam of stories we hear from potential clients and do not reflect any particular case.
2 https://www.aba.com/-/media/documents/about/foundation/2017-older-americans-benchmark-report.pdf?rev=f9ea08e97bc84996aa77e90c24ffe04f&hash=69177116DF64155675C02B3CA4FFC664
3 Welfare & Institutions Code §15610.30
4 (AB 2107, as Amended August 7, 2000.)
5 See e.g., https://files.consumerfinance.gov/f/201603_cfpb_advisory-for-financial-institutions-on-preventing-and-responding-to-elder-financial-exploitation.pdf

Q&A WITH SCOTT MacDONALD, MANAGING DIRECTOR OF THE MERRILL LYNCH SPECIAL NEEDS TEAM

Scott McDonald
Managing Director,
Merrill Lynch Special
Needs Team



Mark Olson
PFAC President

PFAC's President, Mark Olson, recently conducted an interview with Merrill Lynch Special Needs Team Managing Director, Scott MacDonald, discussing stock market performance during COVID-19 and his outlook for the future.

Question 1: This past year has been a wild and crazy ride. What are a few of your key takeaways about investments that you can share with fiduciaries?

Answer: The market reaction to the COVID shutdown last February and March was dramatic – approx. 39.3% drop in the S+P 500 Index! However, most clients with prudent, diversified portfolios did much better, losing about 1/3 of the overall market drop. Since that time, values have rebounded to new highs, emphasizing a long term perspective for Fiduciary Clients.

This period also highlights the importance of a reasonable cash reserve for expected expenses and a custom financial plan and budget projection which helps to quantify investment risk for your clientele.

Question 2: How would you advise fiduciaries to handle client assets moving forward from this fluctuating market?

Answer: As markets always fluctuate, sometimes dramatically and in both directions, it is important to maintain a disciplined approach which encompasses:

1. Adequate cash reserves equal to 6 months to 1 year of client expenses
2. Quality investment research which dynamically updates portfolio holdings to variable market conditions
3. Periodic rebalancing which reduces volatility and risk
4. Comprehensive periodic reviews with your financial advisor

Question 3: What would you consider the most conscientious investment strategies for fiduciaries working with senior clients?

Answer: It is important to consider both sides of the investment equilibrium – Safety of Principal vs. Client Lifestyle. While we can assure the client loses no money, we will likely penalize their lifestyle and have to downgrade their care, therapies, and quality of life. Conversely, clients who are drawing heavily on their assets to fund their lifestyle cannot afford to draw large sums when markets are (temporarily) down. That can lead to a downward spiral which depletes the client's assets – to catastrophic results.

The solution is to balance these needs through the financial planning, budgeting and risk analyses process to determine the proper asset allocation for each client individually. Periodically reviewing the client's situation and adapting risk parameters is clearly essential.

Continued on next page

Question 4: What would be the first thing you would advise fiduciaries to do when they take on a new client with an existing investment portfolio?

Answer: As always, a comprehensive financial plan and review of client investments is required when on-boarding a new client to determine risk parameters, total investment costs, budget realities and tax implications. Periodic reviews should update these items. Most importantly, it is vital to have dynamic, research based portfolio rebalancing to cope with market changes and help reduce risk and increase client returns.

Question 5: Can you tell us how you have seen the industry evolve over time?

Answer: Our team has seen the fiduciaries come from their kitchen tables to high rises. We witnessed industry press scandals a couple of different times that led to licensing and continuing education etc. and improved surety bonding of the industry. We've seen people take it from a hobby to a licensed profession over time. We have seen the organization membership grow from some single digits of 10 or 12 people to 800 plus currently in California alone -- as well as some improvement nationally—and that is ongoing.

We have seen a real change of skepticism of "vendors" to viewing affiliates as partners that help us to all serve our clients better and to grow the professionalism in the organization over time. Ultimately, the goal of all of us in the industry is to serve the client with excellence and sustain a high level of credibility in the industry.

Question 6: What is your vision for the future of the industry and our organization?

Answer: I have always said that fiduciaries are at least, if not more, important than CPAs—as you provide a dramatically superior service. Filing the taxes is one thing, but care-giving, developing care plans, taking care of major family problems, mental illness, special needs, and disability—you folks are like saints! Fiduciaries should be held in at least the high esteem of attorneys and CPAs, if not much more so.

There's a crucially huge need nationally for these kinds of services. We have an aging population demographic. We have a lot of broken family structures which create issues where families don't take care of themselves anymore. We also now have the pandemic which has had disproportionate effects on elderly clients as well as disabled and special needs clients. Unfortunately, it's a growth market, but you folks are well prepared to step in and do the right thing for clients.

Also, you have to understand that this state organization, the Professional Fiduciary Association of California, is much more actualized than anywhere else in the nation. We have outreached to other parts of the nation and to other guardians (as they are called) in the other states. We would like to see the education requirements, bonding, and sophistication that you Fiduciaries do in the state of California spread nationally. The other states are far behind and their organizations are not as fulfilled as yours. Right now, with the National Guardianship Association, your Board, President Mark Olsen and Executive Director Amy Olsen, are key to doing that and are doing a great job in helping to spread the word to better serve more clients, more efficiently and more safely.

Question 7: Do you have any other final parting words for our members and our organization?

Answer: Yes, thank you, Mark. God bless fiduciaries for what you do for all of your deserving clientele all of the time. It is somewhat a thankless job and you are often working 24/7 to the best benefit of families, special needs beneficiaries, and elderly clients. Especially, thank you for allowing us to participate as a team to do partner with you to make a positive difference. This combined effort is really meaningful in client family livelihoods.

Paul Hynes, CFP®
Financial Advisor,
HearthStone | Private
Wealth Management

ABOUT FDIC AND SIPC ACCOUNT INSURANCE —SIMILARITIES AND DIFFERENCES

Two federally backed insurance programs are the Federal Deposit Insurance Corporation (FDIC) and Securities Investor Protection Corporation (SIPC). Both are independent agencies backed by the full faith and credit of the U.S. government. Both agency programs are designed to cover lost customer assets and deposits due to the full business failure of a bank or brokerage firm. Lastly, both programs only cover member, or "insured," institutions.

That's where the similarities end and the differences begin. FDIC insurance coverage is for deposit accounts at insured banks. SIPC coverage is for investment accounts at insured stock brokerage firms. Let's take a closer look at each one.

FDIC insurance covers all types of bank deposits, such as checking, savings, money market deposits, certificates of deposit (CDs), as well as cashier's checks, money orders, and other official items issued by an insured bank. (1) The coverage is for both principal and interest. Note that the FDIC doesn't cover the contents of safe deposit boxes.

FDIC insurance has dollar limits. The standard coverage is $250,000 per depositor, per insured bank, for each ownership category. A deposit at one insured bank is insured separately from a deposit at another insured bank. However, deposits in separate branches of the same bank are not separately insured. Ownership categories include single, retirement, joint, revocable trust, irrevocable trust, estate, partnership, corporation, and unincorporated association, among others.

This is where things can get complicated. We suggest that people call the toll-free number directly to FDIC to get clarification on any complex situation. That number is 877-275-3342. There's also an on-line resource called the Electronic Deposit Insurance Estimator (EDIE) found at: edie.fdic.gov/index.html. One nice thing about using EDIE is that you can print a report for your files.

FDIC insurance doesn't cover investments, such as stocks, bonds, mutual funds, annuities, or any investment that isn't a deposit at an insured bank, even if the investment was purchased through a bank. That's where SIPC insurance steps in.

SIPC insurance covers investment accounts, up to dollar limits, that are held by insured brokerage firms. The SIPC limits are $500,000 per account, including up to $250,000 in cash held in the account. SIPC insurance coverage is designed to replace investments that might be lost due to the failure of the brokerage firm. These days, most investment are recorded electronically, so it's hard to imagine something getting lost. Yet, it could happen. SIPC says that they have recovered billions of dollars for investors during their 50 years in operation. (2)

U.S. Treasury obligations, such as bills, notes or bonds, are backed by the full faith and credit of the U.S. Government. Thus, these investments don't need separate insurance from SIPC.

What happens if the investment account has value in excess of $500,000? Most brokerage firms carry what's called "excess insurance" for the value above the SIPC limits. It's not unusual for some brokerage firms to have millions of dollars in excess coverage per account.

SIPC doesn't protect investors from market losses, promises of future performance, or commodities or futures contracts. And, of course, your account must be with a member firm to be covered by SIPC. That's usually not an issue since most U.S. brokerage firms are required to be SIPC members. (2)

The main purpose of both FDIC and SIPC insurance is to instill consumer confidence. They also provide a government-guaranteed backstop should all else fail. Institutions are required to disclose these protections to customers when a new account is opened and at least annually thereafter.

.If you have any questions about FDIC and SIPC insurance, a good place to start is the website for each agency: fdic.gov or sipc.org. And, feel free to talk with us. We're here to help.

(1) What is the FDIC? https://www.fdic.gov/resources/deposit-insurance/brochures/insured-deposits/
(2) SIPC How We Protect You https://www.sipc.org/for-investors/introduction

Meredith Prichard Jensen
Wealth Management
at Morgan Stanley

UNDERSTANDING MARKET RISK WHEN YOU INVEST

How you can mitigate the different types of risk in your portfolio

When you invest your money, you probably know you're taking on a certain amount of financial risk. Unlike depositing money in a bank, where it is often insured and can earn a steady amount of interest, investing doesn't offer financial certainties. You could earn a great deal of money on your investments, but you also face the risk of losing money.

In general, the more financial risk you're willing to take on in an investment, the greater your chance of potentially earning higher returns. Higher financial risk will also increase the losses you might face on your investments. However, investors also face risks they don't necessarily get to choose when they're selecting investments. "Market risk" is one of those.

Defining market risk

Market risk refers to financial factors that can impact an overall economy. Market risk can affect the economy of just one country—such as the U.S.—or it can affect international economies, too. Whenever a geographic area faces a widespread recession, governmental change, natural disaster or other major factors, that area's financial markets will usually reflect the impact.

Generally, some amount of market risk is inevitable with every investment. Even the most experienced investors can't completely eliminate market risk. However, smart investors may be able to soften their potential financial losses during a down market by diversifying their portfolios and using what are called market risk "hedging strategies."

First, though, it's important to understand the typical market risks all investors face.

The 4 most common market risks:

When it comes to market risk, you'll likely hear about these primary factors:

- Interest rate risk: When overall interest rates shift, your investments can be affected, too. Fixed-income investments like bonds tend to be most directly impacted by interest rate changes. If interest rates go down, bond prices typically tend to swing upward. And when overall interest rates go up, bond prices tend to fall. Investors who own a lot of bonds or bond funds can face significant market risk whenever interest rates shift.
- Equity price risk: Equities, or stocks, tend to be riskier than many other types of investments. Equity price risk just refers to the chance that a particular stock will decrease in value after an investor buys it.
- Currency risk: Whenever there's a significant change in the price of different countries' currencies compared to each other (their exchange rates), currency risk is an issue. For example, your investment in a European stock might face some losses because the Euro – US Dollar exchange rate changed. Currency risk is always a concern for investors who have international holdings.
- Commodity price risk: Commodities are raw materials, such as corn, crude oil, cotton and steel. These materials are used directly and sold to produce other products. Big price changes in key commodities can affect investors who invest directly in commodities or in companies that rely heavily on these materials. Commodity prices can be affected by a wide range of factors, including severe weather, supply and demand, currency exchange rate, and regulatory changes.

Strategies for reducing market risk

There's no way you as an investor can completely eliminate exposure to overall market risk. However, there are things you can do to help your portfolio weather any big market moves. One way is to diversify your investments. Consider putting money into different asset classes (such as equities, bonds, commodities, real assets). Within equities, you can try investing in different industry sectors (such as technology, health care and energy).

You can also diversify by investing in index mutual funds and exchange-traded funds (ETFs) that invest in thousands of different types of companies. With so many factors to consider, a Financial Advisor can help you sort through the options to develop a diversified investment strategy that reflects your individual risk tolerance and broader financial goals.

The bottom line: The more you understand the basics of market risk, the better you can prepare your investments to face it.

Article by Morgan Stanley and provided courtesy of Morgan Stanley Financial Advisor Meredith Prichard Jensen is a Financial Advisor in Marin County at Morgan Stanley Smith Barney LLC ("Morgan Stanley"). She can be reached by email at Meredith.Jensen@morganstanley.com or by telephone at 415-482-2707. This article has been prepared for informational purposes only. The information and data in the article has been obtained from sources outside of Morgan Stanley. Morgan Stanley makes no representations or guarantees as to the accuracy or completeness of the information or data from sources outside of Morgan Stanley. It does not provide individually tailored investment advice and has been prepared without regard to the individual financial circumstances and objectives of persons who receive it. The strategies and/or investments discussed in this article may not be appropriate for all investors. Morgan Stanley recommends that investors independently evaluate particular investments and strategies, and encourages investors to seek the advice of a Financial Advisor. The appropriateness of a particular investment or strategy will depend on an investor's individual circumstances and objectives. Morgan Stanley Smith Barney LLC ("Morgan Stanley"), its affiliates and Morgan Stanley Financial Advisors and Private Wealth Advisors do not provide tax or legal advice. Investors should consult their tax advisor for matters involving taxation and tax planning and their attorney for matters involving trust and estate planning, charitable giving, philanthropic planning and other legal matters. Meredith Prichard Jensen may only transact business, follow-up with individualized responses, or render personalized investment advice for compensation, in states where she is registered or excluded or exempted from registration.

Jerry Desmond
PFAC Legislative Advocate,
Desmond & Desmond, LLC

The PFAC legislative committee, co-chaired by Marilyn Kriebel and Aaron Jacobs, is quite active on a number of legislative issues. At this writing, the April 30 deadline is approaching for most 2021 legislation to pass through the initial policy committees in the Assembly or Senate. Negotiations, hearings and testimony, and other advocacy efforts are underway to implement the positions that the PFAC Board of Directors has adopted on the measures.

In addition to Marilyn and Aaron, the legislative committee members are Robert Earnest, Alison Henry, Richard Lambie, Russ Marshall and Leslie McNamara.

Following is an overview of four key measures in which PFAC is engaged. Three of these bills have been introduced this legislative session in response to concerns over potential abuses in probate conservatorships.

Professional Fiduciaries Act – and More

AB 1194 [Low] - would add several provisions to the Professional Fiduciaries Act and place new requirements on the Professional Fiduciaries Bureau and California Courts regarding professional fiduciaries, court-appointed conservators and relationship-based conservatorships.

As described in the Assembly Business and Professions Committee analysis of this measure in advance of the April 13 committee hearing, the bill would:

- Require a professional fiduciary with an internet website to post a schedule of fees on the site.
- Require the bureau to revoke a professional fiduciary's license if a court finds by a clear and convincing standard that he or she has not acted in the best interests of the client or has committed abuse of an elder or dependent adult.
- Make the conservator liable for a civil penalty of up to $25,000 payable to the estate of the conservatee if the court finds that a conservator has not acted in the best interests of a conservatee.
- Require the court to select a professional fiduciary as the conservator of an estate if the estate is valued at $1,000,000 or more.
- Require a court investigator to gather and review relevant medical reports and supplemental information regarding a proposed conservatee, including at least one report from the primary care physician.
- Require a court investigator to report to the bureau if it undertakes an investigation of a fiduciary.
- Authorize any person to petition the court to investigate an allegation of physical abuse or financial abuse of a conservatee, and require the court to investigate those allegations.
- Eliminate the court's discretion to authorize a guardian or trustee who is not a trust company to hire or refer business to an entity in which he or she has a financial interest.
- Eliminate the court's discretion to compensate a guardian or conservator from the estate for the costs or fees incurred in unsuccessfully opposing a petition or other action made by or on behalf of a ward or conservatee, and instead prohibit a guardian or conservator from being compensated from the estate for the costs or fees incurred in unsuccessfully defending a reduction or denial of their compensation.
- Require the court to award the costs of the petition and other expenses and costs of litigation to a successful petitioner if a guardian or conservatee is removed for cause.
- Require the Judicial Council to report to the Legislature, on or before January 1, 2023, regarding specified findings and recommendations on court effectiveness in conservatorship cases.

The PFAC legislative committee is engaged with the author, legislators and other interests in order to address several issues that have been identified with the measure. Through these ongoing efforts, a number of revisions are anticipated.

For instance, the provision requiring the Court to appoint a licensed professional fiduciary conservatorship for an estate valued at $1,000,000 or more could present a problem in the event that a licensed professional fiduciary refuses to take the case.

Another is the failure of the fee posting requirement to acknowledge that probate fees are set by law, conservatorship, guardianship fees are hourly but subject to court authorization, and there is no existing standard for reasonable hourly rates.

The bill requires that the bureau revoke a license if a court finds with a new, unascertainable and undefined "clear and convincing standard" that a licensed professional fiduciary has not acted in the best interests of his or her client or has committed abuse of an elder or a dependent adult.

The prohibition on compensation in unsuccessfully defending a reduction or denial of compensation is a significant concern. It does not recognize that, though the court may be persuaded to allow the requested action, the court, depending on circumstances, may be of the opinion that the objections brought by the conservator were reasonable and thus allowing compensation for that service is reasonable.

There is no set standard for conservator fees, and fee requests made by both conservators and attorneys are routinely reduced for any number of factors such as hourly rate; burn rate of conservatorship assets; court attempting to appease family members in some small way; and other factors. It is subjective and it is not unusual for different hourly rates to be allowed to the same conservator in different matters.

A conservator, particularly a professional, should have the right to defend a fee request that he or she believes to be reasonable. If conservators are not able to defend their fee requests, there will be less and less professionals willing to serve as conservators.

Care Plans for Conservatees

SB 602 [Laird] - would require a conservator, within thirty days of appointment or thirty days before a hearing, to determine the continuation or termination of an existing conservatorship, to submit a care plan for the care, custody, and control of the conservatee using a form developed by the Judicial Council.

Continued on next page

The bill would require the care plan to be submitted to the court, the attorney for the conservator, the attorney for the conservatee, the conservatee, and the conservatee's spouse or registered domestic partner and relatives within the first degree.

The bill would subject a conservator who fails to timely submit a care plan to a civil penalty of up to $5,000 unless the court finds good cause not to impose the penalty. Failure to timely submit the plan would be a basis to remove the conservator. If the conservator is a professional fiduciary, that person would additionally be subject to a potential administrative penalty or a revocation of the conservator's license.

The measure presents a number of concerns including the short period of time for the development of a care plan and the lack of a provision for amending or updating the plan. Quite significantly, the fines would be mandatory with imposition without the necessary due process.

Disposal of Valueless Property

AB 1062 [Mathis] - would authorize a guardian or conservator of the estate to dispose of or abandon valueless property only after providing all persons who received notice of the guardianship or conservatorship petition with fifteen days written notice and providing reasonable access to the valueless property prior to its disposal or abandonment.

The bill would also authorize a person who received that notice to petition the court to resolve a property right dispute. If a guardian or conservator of the estate becomes a successor trustee while the ward or conservatee is alive, the bill would require all of the conservatee's or ward's personal property, wherever located, and real property located in this state to be subject to the continuing jurisdiction of the court and, unless the court finds it is not in the ward's or conservatee's best interest, to be under court supervision with the appropriate accounting required by the court.

The measure presents a number of issues, including the new burden it would place on guardians, conservators, and the courts. The California Rules of Court that address this issue:

- Require that a conservator of the estate, when disposing of the conservatee's tangible personal property, inform the family members in advance and provide them an opportunity to acquire the property, with approval or confirmation of the court.
- Provide a ten-factor test to evaluate whether disposal of the items is in the best interest of the conservatee.

Requiring notice for a guardian or conservator to dispose of or abandon valueless property, with no monetary value, could provide an incentive for the filing of petitions to resolve disputes regarding the right to the valueless property.

Education Requirements in Professional Fiduciaries Act

AB 465 [Nazarian] - would establish cultural competency education requirements for licensed professional fiduciaries.

The measure would require that licensed professional fiduciaries obtain one hour of cultural competency training upon initial licensing and every three years.

For these purposes, the bill would add a definition of cultural competency to the Professional Fiduciaries Act as "understanding and applying cultural and ethnic data to the process of care that includes, but is not limited to, information on the appropriate treatment of, and provision of care to, the lesbian, gay, bisexual, transgender, and intersex [LGBTQI+] communities, ethnic communities, and religious communities."

The provisions of the measure reflect discussions PFAC held with the author and proponents prior to the introduction of the bill, including the appropriate definition of cultural competency. PFAC has a support position on AB 465.

CONFERENCE UPDATES

Conference Date Change

PFAC pivoted the Annual Educational Conference for the second year in a row, **now planned for August 25-28, 2021** at the historic Hotel del Coronado. The hotel has renovated the lobby and meeting space over the past year, as well as a recent large renovation of the Windsor Lawn - our destination for Friday night's festivities. While changing the conference dates was not in the plans, we embrace the extra time to allow for more people to get the COVID-19 vaccination which gives us all a better chance of gathering come August.

Program Highlights

The 2021 Conference is being offered for the first time both in-person and virtually. For those who are unable to travel to Coronado, the general sessions will be live-streamed Thursday, Friday and Saturday. Pre-Conference Intensives are available separately both virtually and in-person. Want to stay at the Del but avoid the crowds? Watch the general sessions from the comfort of your room. Attendees can earn up to 15 CE, 10.5 MCLE, and up to 5 more CE's with a Pre-Conference Intensive.

Wait, that's not all! Members who register for the in-person conference will also receive free access to an additional FIVE CEs of on-demand conference sessions after the conference. Post-conference access will be available through April 1, 2022.

Take advantage of the Early Bird discount, now extended until June 1, 2021.

Hotel Update

The beautiful architecture of the Hotel del Coronado, along with its rich guest history of Presidents, royals and celebrities, is reason enough to visit the hotel. Factor in the location in the heart of Coronado, pristine sand beach and gorgeous Southern California weather, it is no wonder the resort is a popular destination for locals and visitors each summer.

The new Conference dates fall within the hotel's peak season and space is filling up very quickly. Good news! PFAC has secured a room block at the Loews Coronado Bay Resort, a gorgeous hotel with views of the Coronado Bay Bridge and San Diego skyline. The Loews is less than 10 minutes from the Conference venue with a complimentary shuttle that will drop off and pick up across the street from the Hotel Del each morning and evening. The room rate is $259 per night for registered attendees with discounted self-parking and waived resort fees.

We also have a list of hotels near the Hotel del Coronado that are within walking distance of the venue.

Visit pfacmeeting.org/venue for more information.

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