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DARE TO BE DULL

## DOI — consumer protection or producer protection?

The Colorado Division of Insurance boasts some pretty impressive statistics.

According to a newspaper article published earlier this year, it processes more than 25,000 contacts annually, with more than 4,000 being official complaints. The story claimed that most complaints are resolved within 90 days, and that 90 percent of those filing complaints, according to the DOI, found its performance satisfactory.

On the surface, it would appear that the DOI is doing a fine job of fulfilling its mission of “consumer protection.”

In my own experience with the DOI, however, satisfactory is not the word that comes to mind. And my personal lack of satisfaction has caused DOI personnel to accuse me of having an axe to grind.

So, I thought I'd give the DOI a fresh look, and use one of the ugliest insurance cases I have ever seen to do so.

### The case

A new client came to me with a portfolio built by a local Certified Financial Planner with so called fiduciary responsibility. Among the products he sold to his client was a variable annuity. Although I've seen this a million times, there were some things even I hadn't seen.

- This CFP, acting as the insurance producer, apparently couldn't make up his mind to charge commission or charge a percentage of assets, so he did both.
- The total annual costs of the product amounted to 5.29 percent, although there would have been no way for the consumer to have known this.
- The CFP made false written communications about the performance of the annuity.
- The CFP made a written representation that he would reimburse the consumer for the costs of a mistake he made in calculating a surrender charge and then changed his mind.
- Once the CFP could no longer make money from this consumer, he withdrew as agent and told the consumer not to contact him anymore.

Apparently, I wasn't the only one who thought these facts were egregious.



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The multi-billion dollar insurance company and the broker dealer this CFP worked through made a very fair settlement to this consumer. Of course, neither admitted any wrongdoing.

There were two tough points in negotiating with the insurance company and neither involved money. The first was that the consumer wanted to keep the right to file a complaint against the CFP to prevent such a thing from happening to others. The second was my right to write about it, without mentioning the name of the insurance company and broker dealer.

### The DOI complaint

Late last year, the consumer filed several complaints, including one with the DOI.

The consumer asked for no monetary compensation because his only motive was to help others. So, as not to blindside or axe-grind the DOI, I informed its commissioner, Marcy Morrison, that I was assisting this consumer.

The DOI was sent reams of documentation to support the summary complaint. The investigator did contact both the consumer and me to get more information. Ultimately, it found this CFP producer acted in a lawful manner and broke no Colorado insurance laws.

### Consumer implications

I tried to confirm these implications with the DOI, but no one would respond to the tough questions. Judging by this outcome, the DOI appears to be saying that Colorado consumers has no right to:

- Understand the costs of insurance products they buy. The consumer must read through hundreds of pages of disclosures, buy books to discover costs and do complex calculations.
- Obtain accurate information about the performance of their insurance investments.
- Receive ongoing advice from an agent, after the agent has made his or her commission.
- Rely on any written statement from the agent of record about their insurance policy.

After being stonewalled by the DOI, I contacted Gov. Bill Ritter's office to confirm the above.

They asked for additional time to respond and,

after a few weeks, came up with the response: “No comment.” I'm not sure why it took weeks and several follow up calls to get that response regarding Colorado consumer protection.

What about those great satisfaction statistics?

Am I being unreasonable? Isn't a 90 percent satisfaction score pretty good?

Well, having filed two written complaints to the DOI made me wonder why I didn't get a survey. The DOI responded that it sent surveys to everyone who filed a complaint, but mine weren't in writing and thus weren't considered complaints. Upon sending them copies of my written complaints, and noting I had even made a trip to Denver to discuss one complaint, the DOI again became as unresponsive as the insurance company that eventually settled with the consumer.

In the “give me a break” department, I suspect even the Internal Revenue Service could get 90 percent satisfaction statistics if they hand-picked the people to survey.

### DOI's bailiwick?

In an earlier e-mail response from Morrison regarding a different insurance annuity, she stated, “The subject matter is not within our bailiwick.” She referred me to the Colorado Division of Securities. She later denied making this statement but, hey, let's hear it for e-mails.

### My advice

In all fairness, no other regulator has yet to find any wrongdoing from this Colorado CFP. I'm sure he feels vindicated and is continuing on his merry way of producing wealth for himself on the backs of the Colorado consumer.

My advice is to never buy anything you don't fully understand. Colorado doesn't demand a consumer know the total cost of a vehicle in one simple page, but you can.

If the agent doesn't put it in writing, give it a pass. The buck stops with you, my fellow consumers, because in Colorado, even getting it in writing doesn't seem to matter.

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