Second Quarter Newsletter 2004

VIGIL Strategies

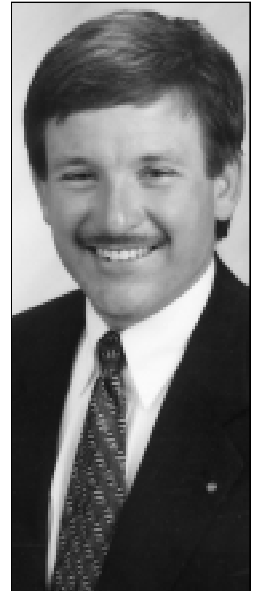
Taking you where you want to be

A Higher Calling

I recently had the special opportunity to hear an outstanding presentation by Daniel R. Solin entitled "A Higher Calling." Mr. Solin is a New York attorney who represents clients who have suffered economic harm in some regard in their dealings with their broker. His book entitled "Does Your Broker Owe You Money" provides a disturbing look at examples – gleaned from actual facts in actual cases that he has tried – of how the conflicts of interest at brokerage firms, mutual funds and big banks/trust companies cost consumers millions in losses and added expenses from actions that have sadly come to be part of the accepted culture in most corners of the financial services industry. Examples such as mutual funds conducting illegal sales contests with substantial financial prizes to representatives who sold the most and stock analysts confirming that they put a "buy" rating on stocks they felt were poor investments in order to support the sales efforts of brokers hyping the stock to their clients were shocking even to those of us who have seen too much of this before in the inner workings of the financial services industry.

Mr. Solin's point was that in his view and from his perspective of having seen all of the abuses in the industry, he believed the manner of financial services delivery practiced by all of us in that room – a fee ONLY relationship where the advisor's only duty is to represent the financial interests of his/her clients (we call it financial advocacy here at Vigil) – was the ONLY kind of relationship most consumers should consider for obtaining financial advice. But if that is the case, why are so few of the nation's financial services consumers actually using such a service? In answer to his own question, he pointed out that there are only 1100 current members of our association. If each member has an average of 200 clients, we are currently reaching only 220,000 of the millions and millions of financial consumers across the Country. The voices of our small band of client-focused advocates are drowned out by the collective noise of slick marketing messages supported by billion dollar marketing budgets with the "Wizard of Oz" message – "pay no attention to that man behind the curtain." In other words, you don't need professionally trained, experienced and objective help; you can do it yourself with just a little help from "our friends."

Mr. Solin urged those in attendance to a "higher calling." He charged us to be unrelenting in making the point that the client's interest should come before corporate or personal profit for the provider in the delivery of financial services. While he acknowledged that our message will have a hard time getting through because of the sheer volume of the noise from those who would have you believe otherwise, he said we will ultimately succeed in getting the entire industry to provide advice the way we do because we are on what is ultimately the right side of the argument.



As we gave Mr. Solin a standing ovation at the conclusion of his remarks, I was struck by just how right he was and just how right the work we are doing is for our clients even though many haven't heard about it or understand it just yet. There are just so few of us giving consumers the straight story. But the word will get out – because it is right. Ours is a group that appointed New York Attorney General Elliott Spitzer as our Man of the Year this year for his fine work in bringing focus to certain mutual fund and brokerage practices that have troubled many of us for a long time. This is the same group that appointed Vanguard founder John Bogle as its Man of the Year a few years ago for his groundbreaking efforts in bringing focus to the debate about excess costs within

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mutual funds that compensate the fund company in hard-to-completely-decipher ways that end up reducing the return experienced by investors.

Being a member of NAPFA really is a higher calling. I am truly proud of our organization and am eager to use any tools available to me to communicate our message and combat the other "noise" that is out there. If you don't fully understand what we do and the critical ways in which what we do is different from how others would offer you financial advice, please accept this invitation to contact us to learn more. If you will join the growing numbers of professionals and clients giving voice to the client advocacy approach to financial advice, I believe we have the collective power to change the entire financial services industry for the better!

Tom Batterman
Vigil Trust President
NAPFA-Registered Financial Advisor

Shopping For a Financial Advisor?

Assessing Real Costs Key to Understanding What You Are Paying For

Every year, there are a handful of potential clients that chose not to use Vigil's services because they feel they can get the same level of service from another provider (or in some cases do it themselves) at a lower cost. These folks tend to fixate on Vigil's fully disclosed professional fee. Yet, what most of these potential clients fail to fully comprehend is that the costs of using other financial advisors or solutions are not always readily apparent.

If you are in the process of shopping for a financial advisor keep in mind that there are both "hard" costs and "soft" costs in investing. Hard costs are costs that appear on your monthly statement. At Vigil, the cost to you is straightforward – we charge our on-going advocacy clients an annual professional fee roughly equal to 1.2% of the first $500,000 in market value of assets under management with 1/12th of this fee billed monthly. Since our fee is based on the value of our clients' portfolios, we have an ongoing, vested interest in the success of our clients' investment strategies.

However, it is important to look beyond hard costs alone in selecting financial management assistance. Investors should also be aware of soft costs. Soft costs are costs that are imbedded within the transactions or the investment. These imbedded costs are not easily determinable and are deducted from the return on your investment, so their existence lowers your return. If you are aware of these costs, there are strategies that can be implemented to control them. Effectively controlling these costs will save you a lot of money each year, but these savings will not show up as a separate "cost reduction" line item; they will simply result in a higher return on your investment.

Frequently, soft costs provide additional income to your financial advisor. For instance, affiliated mutual funds pay management fees to an advisor's related company; non-affiliated mutual funds pay fees to be included on the advisor's recommended list of mutual funds; advisors use a related company to execute portfolio investment transactions at additional compensation; and the list goes on. All of these practices potentially (if not actually) affect the objectivity of the recommendations of your advisor and possibly cause the advisor to recommend actions for you that are better for the advisor and its related parties, but not necessarily better for you.

As an independent, fee-only trust company, Vigil receives NO benefit of any kind from soft costs. Our only compensation is the fee we charge that you see each month. However, we are keenly aware of the existence of soft costs costs. We attempt to use investment instruments that do not involve any transaction costs or other needless ongoing expenses that reduce returns, if using such investments is in our client's best interest. To the extent we need to use investment instruments purchased through a broker, we negotiate transaction costs with the brokerage firm and use other strategies to minimize those costs. Our job is to implement strategies to control these costs to increase your return. In this regard, we do exactly the same things you would do if you were managing the portfolio yourself, that is ***if*** you were aware of the existence of these costs and had the knowledge and tools available to control them. This is a subtle but critical point; no assessment of the costs of working with a particular financial advisor is complete unless and until you consider soft costs, how they may result in inferior investment decisions for your portfolio and how they may increase the cost of your investments through a lower return.

If you having a difficult time determining to what extent soft costs are embedded within your portfolio consider consulting with a Financial Advocate-someone whose job it is to represent your best financial interests. At Vigil, our Financial Advocates routinely review portfolios, at no obligation, to help investors identify where soft costs exist. Once soft costs have been identified investors can then begin assessing the real cost of working with their advisor.

Are Fees Lurking Within Your 401K or Retirement Plan?

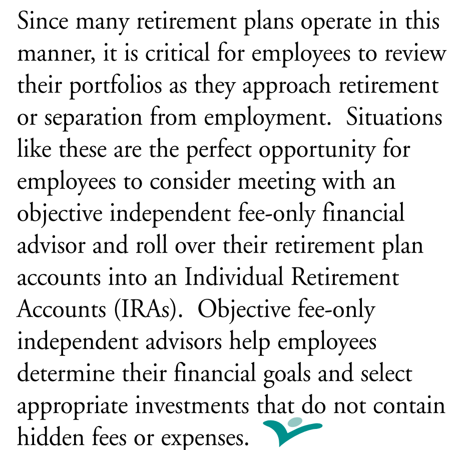
Like insects swarming over a picnic table, fees that accompany many financial products may seem small and annoying but they can carry a real sting. According to *Consumer Reports*, U.S. consumers collectively pay at least a whopping $216 billion in financial fees each year.

For the average investor, fees are a lose-lose proposition. Fees end up costing the investor more money, drag down an otherwise profitable investment, and can lock the investor into an investment that might not be appropriate. To add injury to insult, in many cases, unbeknownst to the investor, fees are avoidable. Investors fail to avoid these expenses because a large percentage of fees are essentially no-see-ums, embedded in fine print or collected so seamlessly that investors don't realize that they've paid until long after the fact. This is the case with many employer sponsored retirement plans (e.g. 401Ks, 403Bs, etc).

How much is your retirement plan costing you?
Are you aware that you are probably shouldering some of the cost of your company's 401K plan? Most people think their employer covers the entire cost of running a company 401K plan. While that might be the case for a minority of employees, a more typical scenario is for employers to pass mutual fund expenses on to their employees. Since this expense does not show up as a line item on quarterly statements, most employees are unaware that they are paying fees within their retirement plan. Yet, this fee reduces employees' returns. Additionally, a recent trend is for employers to also shift administrative costs to employees. Again, although employees will not see this fee as a line item on their quarterly statement their return is reduced by this fee.

Determining the fees that you are paying within your 401K is not always an easy task. Your company's plan was probably set-up at no charge to the company. In this scenario, the broker setting up the plan is compensated by bundling fees for administering the account with mutual fund expenses. The plan then offers only higher cost share classes which reduce the employee's overall return. These costs never appear as a line item on statements. Further, employees who leave their retirement plan portfolios invested with their former employer risk paying higher fees; the I.R.S. has ruled that employers can charge former employees a higher retirement plan fee than current employees.

Since many retirement plans operate in this manner, it is critical for employees to review their portfolios as they approach retirement or separation from employment. Situations like these are the perfect opportunity for employees to consider meeting with an objective independent fee-only financial advisor and roll over their retirement plan accounts into an Individual Retirement Accounts (IRAs). Objective fee-only independent advisors help employees determine their financial goals and select appropriate investments that do not contain hidden fees or expenses.



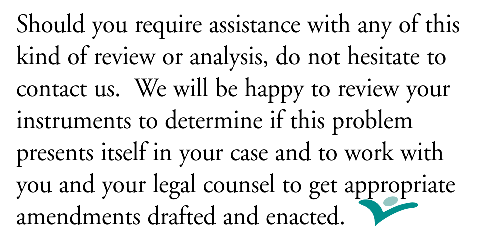
Time to Change Your Will or Trust Instrument?

If you are married and have a larger estate, you probably have a Will or a Revocable Trust instrument that includes provisions for a "Family Trust," "Credit Shelter Trust," or "Bypass Trust" designed to save estate taxes upon the death of the first to die of you or your spouse. If this describes you, you should have your estate plan reviewed promptly to make sure your plan does not yield unintended or undesired consequences at your death.

Many instruments designed to save estate taxes include a provision that places amounts up to the maximum federal estate tax exemption into a Family Trust upon the first death, where such assets are subject to restrictions on the surviving spouse's ability to access the assets. Now that the 2004 federal estate tax exemption has increased from $600,000 to $1.5 million and is scheduled to go higher in the future, many documents with this provision will result in Family Trusts receiving most if not all assets and the surviving spouse receiving little if any unrestricted funds. If you are like many couples, you probably put this restricted asset provision in place only to save estate taxes and your desire is to have the surviving spouse receive as much unrestricted funds as possible while paying the least amount of estate tax. Unfortunately, without a change your documents may end up needlessly restricting the surviving spouse's access to funds.

This is a common problem these days and one that is fairly simple to remedy. But if you don't remedy it, you will have undesired results. So if you are in this situation, consult with an expert right away to help you determine if a change is necessary and if it is, get it taken care of promptly. You may also find that it will be appropriate at the same time to make adjustments to your estate planning documents to allow for Wisconsin Estate Tax savings (a Wisconsin Estate Tax was recently instituted with exemption levels much lower than the Federal Estate Tax) and to include provisions that contemplate your Family Trust receiving assets from an IRA or retirement plan while still permitting the assets to be distributed based upon your children's much longer life expectancy.

Should you require assistance with any of this kind of review or analysis, do not hesitate to contact us. We will be happy to review your instruments to determine if this problem presents itself in your case and to work with you and your legal counsel to get appropriate amendments drafted and enacted.

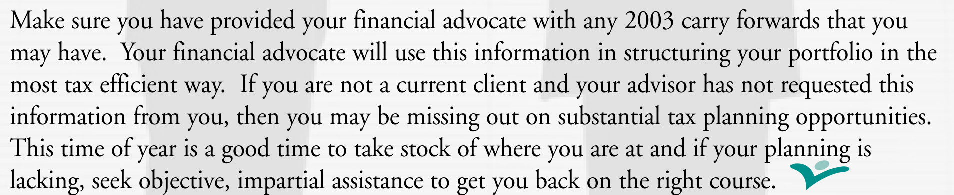


Managing Capital Loss Carryovers: Reminder to Clients

Although winding up with capital losses that exceeds capital gains doesn't make anyone happy, it does happen and even has a bright side (sort of). The bright side is that capital losses can be carried forward to offset future capital gains. Of course, in order to use your losses to your best advantage you (or your financial advocate) will need to create a strategy that contemplates your entire portfolio.

The rules that apply to offsetting and carrying over capital losses can seem rather confusing. Capital losses incurred in excess of capital gains can only be used to offset capital gains up to the amount of the capital gains. So, if you have $15,000 in capital losses and only $5,000 in capital gains for the year, you are only eligible to apply $5,000 of up to the $15,000 to offset your gain. Also, keep in mind that specific rules regarding offsetting apply. First, short-term gains need to be offset by short-term losses. Next, long term gains must be offset by long term losses. Then consider offsetting the results while recognizing that it may be preferential to keep long term gains intact because of their favored tax rate.

Make sure you have provided your financial advocate with any 2003 carry forwards that you may have. Your financial advocate will use this information in structuring your portfolio in the most tax efficient way. If you are not a current client and your advisor has not requested this information from you, then you may be missing out on substantial tax planning opportunities. This time of year is a good time to take stock of where you are at and if your planning is lacking, seek objective, impartial assistance to get you back on the right course.



Vigil Trust & Financial Advocacy
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