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INVESTIGATION SUMMARY FOR PUBLICATION PURPOSES

BACKGROUND

Between February 2006 and February 2008, Mr. and Ms. F invested $1,215,000 in deferred sales charge (DSC) mutual funds in their two joint accounts with Mr. M, an investment advisor with GP Wealth Management Corporation (GP Wealth Management). On the recommendation of Mr. M, they purchased $853,500 of the mutual funds using investment loans.

From July to October 2011, Mr. F and Mr. M communicated regularly by e-mail and phone. During these communications, Mr. F voiced concerns about the management expense ratios (MERs) on the mutual funds, the merits of leveraged investing and the DSCs he might have to pay if he sold his investments. He also voiced concerns about a possible economic downturn and the effect it would have on his leveraged strategy. Mr. F was unsure whether he should sell his mutual funds and pay off the investment loans or move to more conservative investments. Mr. M consistently advised Mr. F to keep his investments and maintain the leverage strategy.

During their communications in the summer of 2011, Mr. F asked Mr. M to confirm that there were no DSCs left on the mutual funds. When Mr. M did not respond, Mr. F contacted the mutual fund company directly and was told the remaining DSCs were approximately $46,000. Mr. F contacted Mr. M to ask why the amount of DSCs was so high. Mr. M initially did not respond to Mr. F's inquiry, but when Mr. F followed up, Mr. M emailed the following response: "As far as the fees I'm surprised on your take and I did send you copies of the documents where its [sic] clearly indicated. The amount of the DSC charges is NOT $46,000 but less than $20k and by staying the course these fees will be zero in a couple of years". Mr. M once again advised Mr. F not to redeem his mutual funds. Mr. F expressed dissatisfaction to Mr. M about having to pay $20,000 in DSCs. He subsequently contacted GP Wealth Management indicating that he wanted to reach a resolution regarding the $20,000 in DSCs that Mr. M wanted to charge him.

At the end of October, after much deliberation, Mr. and Ms. F decided to redeem the mutual funds and repay the investment loans, understanding they would incur approximately $20,000 in DSCs. Shortly after the redemptions, Mr. F e-mailed Mr. M and GP Wealth Management saying that there was approximately $22,000 missing from the redemption. Mr. and Ms. F were in fact charged $45,455 in DSCs.

COMPLAINT

Mr. and Ms. F complained to GP Wealth Management that Mr. M gave them incorrect information regarding the amount of DSCs they would have to pay if they sold their mutual funds. They say that if they had been told the correct amount, they would not have sold their mutual funds.

GP WEALTH MANAGEMENT'S RESPONSE

GP Wealth Management responded to Mr. and Ms. F that their investments were suitable and that the DSCs were disclosed and explained at the time of purchase.

OBSI FINDINGS

Mr. and Ms. F were aware they had purchased DSC mutual funds and they would incur DSCs when they sold them in October 2011. However, Mr. F believed they would be charged $20,000 in DSCs not $45,455.

The communications between Mr. F and Mr. M indicate that Mr. F was undecided about whether to redeem their mutual funds and pay off the investment loans or switch to other more conservative mutual funds. It is clear that the amount of fees he would have to pay to redeem was an important consideration. He actually found $20,000 in DSCs to be excessive and complained to GP Wealth Management about them but eventually chose to redeem his funds on the understanding that he would pay less than $20,000 in DSCs. In fact, after he found out he was charged $45,455 in DSCs, he advised his sister, who also held DSC mutual funds, to avoid the DSCs by switching funds instead of redeeming.

GP Wealth Management is a Member of the Mutual Fund Dealers Association (MFDA). MFDA Rule 2.4.4, which came into effect on February 22, 2011 says that "Prior to the acceptance of any order in respect of a transaction in a client account, the Member shall inform the client of any sales charge, service charge or any other fees or charges to be deducted in respect of the transaction."

Mr. M acknowledges he told Mr. F that the DSCs were not $46,000 but instead less than $20,000. When we interviewed Mr. M, he could not remember how he calculated the amount of DSCs but said he probably estimated it based on the length of time Mr. and Ms. F had held their mutual funds. He expressed surprise when we told him Mr. and Ms. F were charged $45,455. When Mr. F contacted GP Wealth Management in late October 2011 to voice his concerns about having to pay $20,000 in DSCs and to try to negotiate the fees, GP Wealth Management did not tell him that the DSCs were in fact more than $20,000. While Mr. F could have called the mutual fund company back to confirm the amount of DSCs, email correspondence and our interview with Mr. F, indicates that he understood Mr. M and GP Wealth Management had some discretion regarding the amount of DSCs he would be charged. His emails to Mr. M and GP Wealth Management indicate that he was trying to negotiate a lower amount. Therefore, it is understandable that Mr. F relied on the information Mr. M provided and did not feel it necessary to contact the fund company again.

Both Mr. M and GP Wealth Management had an obligation to inform Mr. F of the correct DSCs prior to processing the redemption. Mr. M provided Mr. F with the incorrect amount of DSCs and GP Wealth Management did not provide Mr. F with the correct amount when he contacted them. Neither Mr. M nor GP Wealth Management took any steps to verify the correct amount of DSCs prior to processing the redemption request.

We find that GP Wealth Management is entirely responsible for the additional DSCs Mr. F incurred and find no basis to allocate responsibility to Mr. F who reasonably relied on the information Mr. M provided. Given that Mr. and Ms. F were willing to pay $20,000 in DSCs, we recommended that GP Wealth Management compensate Mr. and Ms. F for the additional $25,455 they incurred in DSCs. GP Wealth Management maintains that Mr. F is entirely responsible for the DSCs he incurred and has refused to offer any compensation.