ECHELON REPRESENTS DEALMAKERS AT FPA NORCAL

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John Castelly's career success rests on a perverse outcome -- just how well he can keep things boring.

Yet the chief compliance officer of Personal Capital got an inverted outcome at the Financial Planning Association's NorCal conference this week causing a sensation -- albeit one you love to hate, like a good horror movie.

Castelly triumphed, as it were, by lowering the DOL rule boom to a crowd that had entered the pavilion relatively certain that booms had been lifted for any forseeable future. His words hit hard -- propelled by his authority.

In an earlier life, he was on Morgan Stanley's Heightened Supervision Committee, worked for the SEC and only recently joined the Silicon Valley wunderkind virtual advisory firm founded by Bill Harris

Attorney Castelly tried at first to reassure his audience that the overtaking unease in their hearts is widely shared.

"This turnaround with a June 9 deadline is just like when we were back in school, thinking we would have a substitute teacher, so we didn't do our homework, but the real teacher showed up instead and we are now not prepared."

Castelly, a self-described "reformed litigator" who spent eight years, 2005-2012, at Morgan Stanley determining just how far the edge could be pushed on product design and the selling practices of its registered reps, defined the edge as coming next week.

Stunned standing-room crowd

"While level fee advisors have an exemption, the DOL rule still will require RIAs to use the "BICE Light," a process of disclosure and documentation (non-contractual) for any "recommendation' to a retirement account, beginning June 9, 2017," Castelly said, surprising the standing-room only crowd. Castelly's own firm, Personal Capital, faces these challenges. It is an RIA in San Carlos, Calif. with people giving advice by telephone and managing $4.3 billion, according to its latest ADV.

This realization among the attendees that there will be some procedural requirements for RIAs immediately washed over the room like a sonic boom, with just about every advisor in the room raising their hands with questions about RMDs, fee schedules, rollovers and more. So much so, that Castelly was unable to move past his 7th Powerpoint slide as he answered advisor question after question in his best shotgun, lawyerly style.

"The real 'gotcha' with the DOL rule is that for the first time ever, third parties, and not the government, will be the ones being able to use a Private Right of Action to enforce the rule and collect damages," Castelly noted. By that, he means the courts, via private lawsuits, will be the teeth behind the rule, much to the consternation of everyone in the industry, including RIAs.

Seeing expressions of pain mixed with disbelief in advisor faces, Castelly added as measured succor. "Yes, there is a lot of grey area here, but if you want to protect yourself, then you need to start complying with the BICE light process in less than 10 days, or else risk the possibility that some court decision, or lawsuit down the road indicates that you were not compliant, exposing you to unknown damages."

As the implacable crowd dejectedly shuffled out of the packed session, Castelly wryly tried to cheer them up with the fact that Labor chief Alexander Acosta has been on record that the DOL will not begin enforcement of it until January 2018 - a symbolic gesture at best as the DOL won't be the ones enforcing, it will be plaintiff attorneys – and that the DOL will reopen the process until then to either confirm, modify or ultimately kill the rule, all of which again leaves the industry with even more confusion and uncertainty.

Gundlach's contrarian take

To offer a light in the fog of uncertainty surrounding markets, interest rates and the economy stepped Jeffrey Gundlach, CEO of Los Angeles-based DoubleLine, affectionately known as the Bond King, with a contrarian view.

His speech, entitled "Investment Cubism," -- in the King tradition established by Bill Gross -- layered in many metaphors and comparisons to pre-WW2 German artists and philosophers.

"The equity markets have been propped up by passive investment flows and are distorting the true state of the market," he said. "What most investors don't realize is that the S&P 500 index is really an actively managed benchmark by a 'committee,' which because it is attracting such large inflows is becoming self-perpetuating, something that cannot be sustainable forever."

Taking it even further, Gundlach warned the crowd that it would be wise to be on the other side of the spectrum – active management – when the pendulum swings back, no small surprise, given his active management approach.

But if passive investments revolt Gundlach, he reserves his deeper despise for robo-advisors: "They are the strangest things. They are the ultimate definition of herd mentality."

Gundlach proceeded to use all kinds of data to show that the ungulates are always wrong, going so far as to quote Nietzsche's "Eternal Return" philosophy that the Universe has been recurring and will continue to recur in a cyclical, not linear fashion.

Mutual assured insanity

"Insanity in individuals is rare, but in groups it is the rule."

On the good news front, Gundlach revealed that his entire set of "favorite leading indicators" were all pointing to a non-recessionary future, a bullish call for the near-term, something even pernicious passive investors can't screw up anytime soon.

The other big-name speaker afoot was Tim Kochis an early and legendary RIA who, with Rob Francais, created mega-RIA Aspiriant.

He brought news only slightly worse than the advancement of DOL-energized lawyers toward the RIA door -- namely that owners of RIAs can't expect to find their clone.

"Time is your friend, giving you the most options. However, you can't just be looking for the 20 year younger version of yourself – that simply just doesn't exist."

Kochis's overarching advice is to digest the advance of age in bits, framing it as a series of "markers" to respect on the career journey, such as making sure you have a COO and that your operations are in good shape, hiring the right people to operate in your absence and making sure to separate ownership from management.

"I've spanned the entire spectrum, from close to zero dollars at the beginning to multi-billions of AUM at the end and the key is to have a game plan to capture the value – you will ultimately have to sell all of it, so start small and have a plan, otherwise you'll never get there."

Kochis also had some choice words about banks as buyers. "Banks are bad buyers – they have the money and will always overpay, however they don't understand the business which leads to problems, and the result that most bank deals end up getting unwound over time, leaving you back where you started."

The quality of these speakers -- and their willingness to take strong points of views -- kept with the Norcal event's 45-year legacy of putting on a cooperative event between the five chapters of the San Francisco Bay Area FPA. The volunteer-run attracts 700 advisors, vendors and industry experts for two days of educational sessions and speakers. The historic Palace Hotel helps it sell out weeks in advance – a rarity for any event in the industry.

Gates- and Google-back Kahn

Also highlighting the agenda was Salman Khan founder of the non-profit Khan Academy, the educational platform backed by Bill Gates, Google and other famous tech titans.

Combining funny anecdotes and inspirational stories, Khan impressed the crowd about how even the most staid of institutions such as education, can be innovated upon and improved by new approaches and technology. Khan is now partnering with major financial institutions such as the Bank of America to extend the Khan Academy to personal finance issues.

On the technical planning front, perpetual, popular speakers Michael Kitces, Carolyn McClanahan and John Nersessian held court on all of the latest tax, healthcare and advanced planning strategies advisors need to know to continue to lead their clients.

Rounding out the 45th NorCal was the always over-subscribed exhibit area on the second floor of the expansive, naturally lit atrium area of the Palace Hotel. Attendees mingled with vendors while sipping fine Californa wines, cheeses and fruits in a setting of arched fenestration.

Sponsors and exhibitors took advantage of the San Francisco downtown to host multiple dinners, parties and outings. Junxure, **ECHELON Partners** and Shareholders Service Group led an event to AT&T Park to watch the SF Giants battle the Washington Nationals on a cool, San Francisco summer evening.