

# When Clients Divorce

How to help clients through the transition *By Richard Stolz*

A client has just called to tell you that he or she is getting divorced, but neither spouse has considered the financial implications. The client asks for your advice. How can you establish an orderly and effective process for addressing the challenges this couple will face—without inadvertently putting yourself at legal risk?

If your legal relationship is with only one spouse, your job might be relatively straightforward. But in the more likely case you represent both spouses, you'll probably need to decide if you will continue to work with one spouse or the other or if you will refer them elsewhere during the divorce process.



Cindi R. Hill, CFP®,  
Former Advisor  
and Principal,  
Hill Compliance  
Advisors

## Communicate Clearly And Carefully

First, it's key to determine if divorce is imminent. If one spouse tells you he or she is considering divorce, but hasn't yet filed the legal papers, you might have more flexibility in helping clients grasp the financial implications of divorce before it becomes a done deal. Former advisor Cindi R. Hill of Hill Compliance Advisors once received a call from a husband who said he was considering the possibility of divorce. Without attempting to dissuade him, she gave him a quick overview of the financial implications. "The topic never came up again," she recalls.

If the divorce is indeed impending, be transparent with both spouses immediately. Ensure that both spouses know what the other is learning from you about their shared assets and how they are managed, and any transactions. In the example above, Hill told the husband she could no longer have private conversations with him if he were to pursue a divorce. When a divorce is pending, she always cc's the second spouse on email responses to any inquiry from the first, and emails both of them if she initiates the communication.

Whether or not you feel you can continue to work with either member of the couple, be sure to clearly state your role. While changing your approach to communications conveys an important message, it's essential to be explicit in explaining your



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relationship to clients. Unless your relationship is with only one spouse, explain that you have a fiduciary relationship with both.

## Choose Your Path

Some advisors seek to maintain a relationship with one spouse after the divorce, while others choose a different course. When Linda Leitz, a Principal of It's Not Just Money, Inc., has been working with both spouses, she tells couples she cannot represent either after the divorce. She believes that if she did work with one following the divorce, the other spouse may believe that Leitz had been on the other's side throughout the pre-divorce planning process.

Jennifer Failla, Principal of Strada Wealth Management and a Certified Divorce Financial Analyst (CDFA™) and Certified Family Mediator, agrees. "Advisors should not be advising clients during a divorce, since clients may perceive the advisor as taking sides even if the advisor strives to maintain neutrality," notes Failla.

continued on page 30

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Divorce... continued from page 28

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—Jennifer Failla CDFA,  
Founder and Principal,  
Strada Wealth Management

Failla is often brought in by attorneys and other advisors to serve as a neutral financial expert for divorcing clients. Once the divorce process is complete, Failla steps out of the picture. She adds, “A good divorce analyst acting in a neutral capacity will not make a play for client assets post-divorce.”

### Turn up the empathy

Whichever path is right for you and your clients, don’t underestimate the impact of emotions. For some, divorce is more emotionally devastating than the death of a spouse. The degree to which a spouse is traumatized and their judgment impaired may not be apparent. Carefully explore the rationale behind any decisions (such as a desire to hold on to a house at all costs) that might be financially self-destructive, and talk through the impact of such a decision with the client. ■

## Navigating the Divorce Process

No matter how the relationship between you and your divorcing client(s) plays out, keep the following in mind:



Kathy Henningsen,  
Senior Investment  
Advisor,  
Retirement Asset  
Management

1

### Understand the implications of client asset titling

If a spouse asks to receive an overview of all the accounts you manage—including an IRA owned by the other spouse—it might be improper to share that information. The same applies to trusts when only one spouse is a trustee.

2

### Know your state’s laws regarding disposition of

assets in a divorce. In some states, a spouse will have claim to a portion of assets titled in the other spouse’s name. In Colorado, for example, if one spouse entered the marriage with a \$100,000 investment account and that account grew to \$300,000 during the term of the marriage, the \$200,000 in growth would belong to the marriage but the original \$100,000 belongs to the spouse who owned the account before the marriage.

3

### Encourage both spouses to retain an advocate.

Often a couple’s intent is to have an “amicable” divorce. However, amicable shouldn’t be confused with fair. Kathy Henningsen, Senior Investment Advisor at Retirement Asset Management, has witnessed situations where the unrepresented spouse has been exploited—whether through misplaced trust, naïveté, or simple exhaustion and the desire to “just be done with it.”

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## Consultant...continued from page 20

always drafts a “statement of work” that defines the deliverables, timeline, and costs, as well as what is expected from both parties.

5. **Assign responsibility for the project.** Before signing the contract, give someone on your staff responsibility for implementing the solution. If there’s no one in-house with the time or the inclination to head up the project, make sure the consultant you hire can do that part of the job as well.

“Without a plan on how to follow through on the recommendations, the entire project can potentially be wasted,” Oligino warns.

When you’re ready to bring in a consultant, TD Ameritrade Institutional can help get you started. Contact your Relationship Manager or, for more information to help with your technology needs and projects, log on to Veo® and go to the Resource Center > Practice Management > Business Operations and access the Technology Assessments. ■