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The Utah Division of Securities
Comments Regarding Advisory Fees Based on Net Worth

“Charging a client an unreasonable advisory fee” is considered a dishonest and unethical business practice under R164-6-1g(E)(10) of the Utah Administrative Code and may entail sanctions under §61-1-6(2)(g) of the Utah Uniform Securities Act. The Division may consider charging a fee based on a client’s net worth to be an unreasonable advisory fee.

To begin, a client’s net worth may extend beyond the securities portfolio(s) or other financial planning areas on which an adviser may render advice. The appreciation or depreciation of a client’s net worth may then be unrelated, or even contrary, to the effect of that adviser’s recommendations or financial plan, which the Division may consider unreasonable. Secondly, as advisory fees typically correspond to an appropriate type of advisory service, the fact that fees based on net worth cannot be attributed to the services rendered by the adviser is another basis on which the Division might consider such fees unreasonable. Finally, the proposed fee structure lends itself to an adviser charging clients on their ability to pay rather than the services rendered, which the Division might also find unreasonable.