

## Advertising Rules for Advisors - Transcript

**Tom Mullooly:** In episode 126 we're going to talk about testimonials and advertising. Stick around.

Welcome to the Mullooly Asset Show. I'm your host, Tom Mullooly. And this is episode number 126. Thanks for tuning in. I want to talk about testimonials and advertising. Every now and then I get someone who asks me, "Where's the testimonial page on your website?" Years ago I had an idea, kind of clever, where I would make a testimonial page that was blank. The reason why it would be blank is because we have this set of rules that we operate under.

All investment advisors do. It's called the Registered Investment Advisors Act of 1940. And, in particular, rule 206.4, subparagraph one, talks about advertising. Now, the Investment Advisors Act was written in 1940. As far as I can see, that's about 70 ... Tim, help me out. 78, 79 years ago. How would they address Twitter? How do they address websites? How do they address social media or even television advertising, at that point?

So there's a couple of key takeaways. But the main thing with this advertising rule from the Investment Advisors Act is don't mislead people. I mean that's kind of common sense. It's misleading when an advisor does things like they fudge their experience or they lie about the academic degrees that they have. It's misleading when they use puppy kind of language. Let me give you an example.

We've seen websites where an advisor will say their strategy is superior to other firms. How can you prove that? How can you say that? Or they say things like, "We've been providing outstanding advice to our clients for decades." Again, how do you prove that you've doing this? Maybe you can prove the time, but has all of the advice been outstanding? I don't know.

So how does this rule remain current in 2019 with the age of the internet? It's very simple. Everything that's online should be considered advertising. And so it should comply with this Act, this rule 206. Likewise, let's talk about testimonials. Testimonials, according to the rule, are prohibited, plain and simple. So if you see an advisor's website or social media page with testimonials, the first thing I would tell you is to run. But you have to really stop and think, "Does this person even know the rules?".

And secondly, does this person like to get as close to the edge as possible, take a lot of risks, live dangerously? Is this really the person that you want managing your investments or giving you financial planning guidance? I don't know. And you should ask that question of yourself as well.

Even testimonial statements like, "Hey, I like this firm because they return my phone calls," or "I like working with this firm because they provide good service." Those kind of testimonials, they can be considered misleading. And they should be discouraged as well. Testimonials really shouldn't exist. As well, posting photos online or if you go to an advisor's office and see pictures in their office of them posing with famous people, famous actors, politicians, famous athletes, it creates a misleading image, a misleading endorsement, or an implied endorsement, that really

should be discouraged. They may be creating an implied endorsement in the visitor's mind when they see this stuff.

We haven't even talked about advisors who advertise their performance figures. I mean that's just ... It's reckless. But, more importantly, nearly every single time that I've seen an advisor who advertises, whether it's on their website or in social media or even in the paper, their performance numbers, they're usually missing the necessary disclosures. Or they're buried somewhere and it's really hard to find. We would love to post testimonials or endorsements. Every single marketing firm that we've brought in here and has talked with us encourages us to use endorsements and use testimonials. What that tells me is that they don't even understand our business. So they don't belong.

But the message to you is be wary. Be wary of advisors that are touting their testimonials or endorsements. It's not prohibited. We all operate under the same rules.

Thanks for watching episode number 126. See you next time.