

**A. DUTIES OWED TO CLIENTS, 1. FIDUCIARY DUTY:**

**8: WHEN THE DELIVERY OF FIRM RESEARCH DOES NOT CONSTITUTE FINANCIAL ADVICE**

Meghan is a CFP® professional who is a registered representative of a broker-dealer. Meghan has a longtime Client, Ted, to whom she provides episodic brokerage services with no responsibility to monitor the brokerage account. Ted contacts Meghan and asks whether Meghan's firm has a research report regarding a specific stock he is considering purchasing. Meghan provides Ted a research report on the stock that her firm prepared. The research report states that the stock is undervalued. Meghan tells Ted that she has not analyzed the stock and is not making a recommendation as to whether Ted should or should not purchase the stock. Ted reviews the research report and then directs Meghan to purchase the stock for him.

**QUESTION:**

**Which of the following best describes Meghan's duty when purchasing the stock for Ted?**

**RESPONSE OPTIONS:**

- A. Meghan does not have a Fiduciary Duty because Ted identified the specific stock at issue.**
- B. Meghan does not have a Fiduciary Duty with respect to Ted's decision to purchase the stock because she did not provide Financial Advice – Meghan did not recommend that Ted purchase the stock.**
- C. Meghan has a Fiduciary Duty because Ted directed Meghan to execute the transaction.**

**Best Response:** Response B is the best response. This case study involves the Fiduciary Duty (Standard A.1.) and the definitions of Client and Financial Advice (Glossary).

At all times when providing Financial Advice to a Client, a CFP® professional must act as a fiduciary, and therefore, act in the best interests of the Client. A Client is any person to whom the CFP® professional provides or agrees to provide Professional Services pursuant to an Engagement. Financial Advice includes a communication that, based on its content, context, and presentation, would reasonably be viewed as a recommendation that the Client take or refrain from taking a particular course of action with respect to, among other things, the value of or the advisability of investing in, purchasing, holding, gifting, or selling Financial Assets. The determination of whether Financial Advice has been provided is an objective rather than subjective inquiry. The more individually tailored the communication is to the Client, the more likely the communication will be viewed as Financial Advice.

In this circumstance, Ted is Meghan's longtime Client. Meghan responded to Ted's question by providing a research report that her firm prepared. The research report was not individually tailored to Ted's personal and financial circumstances. Meghan also mentioned to Ted that she has not analyzed the stock and is not making a recommendation as to whether Ted should or should not purchase the stock. The content, context, and presentation make clear that Meghan did not recommend that Ted purchase the stock when she provided the research report to Ted. Meghan also did not provide Financial Advice to Ted when Ted requested that Meghan purchase the stock for him. The duty to act as a fiduciary arises when a CFP® professional provides Financial Advice to a Client. Since Meghan did not provide Financial Advice, she was not required to act as a fiduciary with respect to Ted's decision to purchase the stock. If, however,

Meghan had a reasonable basis to believe that the transaction was not in Ted's best interests, then Meghan would have an obligation under the *Code of Ethics* to inform Ted that his suggested course of action is not in his best interests, Meghan's reasons therefore, and the possible consequences of taking the course of action.

Response A is not the best response because it does not accurately describe the reason why the Fiduciary Duty does not apply. Meghan is not required to act as a fiduciary with respect to Ted's decision to purchase the stock because she did not provide or agree to provide Financial Advice to Ted about that decision. Whether Meghan must comply with the Fiduciary Duty does not turn on whether Ted requested information regarding the Financial Asset at issue.

Response C is not the best response. Meghan did not provide or agree to provide Ted with Financial Advice as to whether to purchase the stock. A CFP® professional may purchase a stock for a Client without providing Financial Advice about the decision to make that purchase.

**Relevant Standards and Definitions:** Fiduciary Duty (Standard A.1.); Definitions of Client and Financial Advice (Glossary).