



# Self-Directed IRAs: Proceed with Caution & Confidence

A Session Specifically Designed for  
The ITM TwentyFirst University

Tuesday, March 1, 2016 at 2pm EST

**Presented By:**

**Mainstar**  
Trust

**Jean Meyer**

President, Mainstar Trust – Formally: First Trust  
Company of Onaga (FTCO)


W: [ftconaga.com](http://ftconaga.com)

This course has been approved for 1 hour of Continuing Education for CTFA (Financial Planning) and CFP®

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**Self-Directed IRAs:  
Proceed with Caution and Confidence**

Jean Meyer, President, Mainstar Trust – Formally: First Trust Company of Onaga (FTCO)




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**Upcoming Webinars**

**Buying and Selling Specialty Assets**  
John Rowland, Portfolio Manager, PDS Services  
Wednesday, March 16, 2016 at 2pm EST  
[Register Here](#)

**Developing a Compliant and Efficient Trust (LIT) Administration Process**  
Jason Hassman, Client Relationship Manager, ITM Twenty First  
Thursday, March 31, 2016 at 2pm EST  
[Register Here](#)

**Pitfalls of Operations/Management of Specialty Asset**  
Kip Weiss, Chief Operations Officer, Brenda Trevino, Operations Manager, Brett Helweg, Portfolio Manager, PDS Services  
Wednesday, April 20, 2016 at 2pm EST  
[Register Here](#)

**Beyond Ratings: An Alternative Approach to Analyzing Life Insurance Financial Strength**  
David Paul, Principal, AUR Insurance Research  
Wednesday, May 4, 2016 at 2pm EST  
[Register Here](#)

**How to Make Sure Your TOLI Policies Are Competitive**  
Michael Brohawn, CFP®, CLU®, Managing Partner, ITM Twentyfirst  
Wednesday, May 18, 2016 at 2pm EST  
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**10 Questions Every Trustee or Advisor Should Ask Before a Client Purchases or Continues a Life Insurance Policy**  
Barry D. Flagg, CFP, CLU, ChFC, GFS, Veralytic, Inc.  
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**Self-Directed IRAs: Proceed with  
Caution and Confidence**

**Jean Meyer**  
Mainstar Trust – Formally: First Trust Company of  
Onaga (FTCO)

Tuesday, March 1, 2016 at 2pm EST  
1 Hour CE credit for CFP and CTF (Financial)

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*WHAT IS A SELF-DIRECTED IRA?*

### Individual Retirement Arrangement (IRA)

- An IRA is a trust or custodial account, created or organized in the US for the exclusive benefit of an individual or his beneficiaries Code Sec. 408(a)
  - Introduced by Congress in 1974
  - Encourage savings
  - Tax deduction

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*WHAT IS A SELF-DIRECTED IRA?*

### IRA Evolution

- Contribution Changes
- Deductible vs. Tax Deferred
- Additional Account Types: SEP, SIMPLE, Roth, Educational

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*WHAT IS A SELF-DIRECTED IRA?*

### IRA Investment Evolution

- Certificates of Deposit
- Stocks & Bonds
- Mutual Funds
- Alternative Investments

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*WHAT IS A SELF-DIRECTED IRA?*

**Self-Directed IRA**

- Directed by accountholder or accountholder's representative
- Allows alternative investments within holdings

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*WHAT IS A SELF-DIRECTED IRA?*

**Alternative Investments**

- Real Estate
- Limited Liability Companies
- Limited Partnerships
- Private Equities
- Private Notes
- Precious Metals

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*WHAT IS A SELF-DIRECTED IRA?*

**Alternative Investments**

- Annuities
- Real Estate Investment Trusts
- Business Development Companies
- Tax Liens
- Church Bonds
- Others

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- Mainstar Trust**
- ### CHOOSING A SELF-DIRECTED IRA
- #### Why Self-Directed?
- IRA Growth
    - Search for better returns
  - Rollover
    - Large sums of money available
  - Investor Knowledge
    - Available information

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*CHOOSING A SELF-DIRECTED IRA*

**Possible Pitfalls**

- Liquidity of Assets and IRA
  - Required Minimum Distributions
  - Fee payments
  - Other cash needs

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*CHOOSING A SELF-DIRECTED IRA*

**Possible Pitfalls**

- Valuations of Alternative Investments
  - Annually and at taxable events
  - Ramifications of no value

(more to follow)

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*CHOOSING A SELF-DIRECTED IRA*

**Possible Pitfalls**

- Prohibited Transactions
  - Any improper use of an IRA account or annuity by the IRA owner, his or her beneficiary or any disqualified person.

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*CHOOSING A SELF-DIRECTED IRA*

**Possible Pitfalls**

- Prohibited Transactions
  - Disqualified persons include the IRA owner’s fiduciary and members of his or her family (spouse, ancestor, lineal descendant, and any spouse of a lineal descendant).
    - An IRA fiduciary includes anyone who does any of the following:
      - Exercises any discretionary authority or discretionary control in managing the IRA or exercises any authority or control in managing or disposing of its assets.
      - Provides investment advice to the IRA for a fee, or has any authority or responsibility to do so.
      - Has any discretionary authority or discretionary responsibility in administering the IRA.

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*CHOOSING SELF-DIRECTED IRA*

**Possible Pitfalls**

- Prohibited Transactions, continued
  - The following are examples of possible prohibited transactions with an IRA.
    - Borrowing money from it
    - Selling property to it
    - Using it as security for a loan
    - Buying property for personal use (present or future) with IRA funds

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*CHOOSING SELF-DIRECTED IRA*

**Possible Pitfalls**

- Prohibited Transactions, continued
  - Prohibited transaction rules are intended to:
    - Ensure that plan assets are invested to benefit the plan and not the IRA accountholder
    - Prevent plan assets from being used in a self-serving manner

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*CHOOSING SELF-DIRECTED IRA*

**Possible Pitfalls**

- Prohibited Transactions, continued
  - Effect on an IRA:
    - If an IRA owner or his or her beneficiaries engage in a prohibited transaction in connection with an IRA account at any time during the year, the account stops being an IRA as of the first day of that year.
    - Account is treated as distributing all its assets to the IRA owner at their fair market values on the first day of the year.

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*CHOOSING A SELF-DIRECTED IRA*

**Possible Pitfalls**

- Finding a custodian
  - Not all IRA custodians allow alternative investments
    - Often done as exception for 'good' customer
  - Documentation requirements vary

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*SELF-DIRECTED IRA CUSTODIAN*

**Why Engage a Custodian?**

- Required by law
  - Must be trust company or bank (regulated)
  - See account documents naming Custodian

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**Mainstar Trust** *SELF-DIRECTED IRA CUSTODIAN*

## Responsibilities of a Custodian

- Three business models
  - All tasks performed by trust company or bank
  - Custodian contracts with a 3<sup>rd</sup> party provider
  - Rent a name

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**Mainstar Trust** *SELF-DIRECTED IRA CUSTODIAN*

**All Tasks Performed by Trust CO or Bank**

- Regulated Entity
- Asset Types: CU discretion
- Assets titled in CU name/indicia of ownership held in CU vault\*
- Open New Accounts
- Maintain Forms
- Perform OFAC/KYC
- Tax Reporting
- Distributions / RMD's
- Relationship w/ Accountholder
- Prepare and Send Statements
- Execute Purchases / Sales
- Admin Reviews (per statute)
- Bill for and collect Fees
- Approve Assets
- Post Dividends
- Trust system/ Recordkeeping
- Cash Management


**Active Oversight Model**  
CU Contracts with 3rd Party Provider

CU contracts w/ Service Provider to perform tasks in Core box EXCEPT for those law requires CU perform\*

- Asset Types: CU/TPA discretion
- Assets titled TPA as agent for CU/indicia of ownership held in CU Vault
- CU oversees all TPA activity
- Monthly oversight meetings w/ reports
- CU performs New Account and Admin Account Reviews
- Cash Reconciliation Oversight

**Rent a Name Model**

- CU in name only, provides little if any oversight
- Title to assets NOT in CU's name
- CU does not have physical custody of indicia of ownership



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**Mainstar Trust**

**SELF-DIRECTED IRA CUSTODIAN**

**Active Oversight Model**

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*SELF-DIRECTED IRA CUSTODIAN*

**\*Quintessential Custodial Duties**

- Title to all IRA Assets and Cash
- Indicia of Ownership held by Custodian in vault
- Oversight of Service Providers
- Account Documents
  - Original Paper vs. Electronic

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*SELF-DIRECTED IRA CUSTODIAN*

**Custodial Contract**

- The most important tool to limit liability and to define custodian's "duty"
- Limit duty to IRS reporting and executing accountholder orders
- No responsibility for investment decisions
- No responsibility for asset due diligence
- Custodian does not conduct appraisals or verify values

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*SELF-DIRECTED IRA CUSTODIAN*

**Custodial Contract**

- Contract is between custodian and accountholder
  - Accountholder consents to advisor viewing statements
  - Accountholder determines which advisor has access to account not broker/dealer
  - AML comfort letters not sent to asset companies

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**Mainstar Trust** **SELF-DIRECTED IRA CUSTODIAN**

### Custodial Contract

- Right to Revoke: w/i 7 days of receipt of disclosure statement—26 CFR 1.408-6(4)(A)(2)
- Method: mail, telephone, electronic, hand-delivery
- Risk

Day 1	2	3	4	5	6	7	8	9
Acct open-start date						End Date	Make Purch	Receives Rev
						AH Mails Rev		

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**Mainstar Trust** **SELF-DIRECTED IRA CUSTODIAN**

### Custodial Contract

- Revocation, continued
  - The Procedure may require that the notice be in writing or that it be oral, or it may require both a written and an oral notice. If oral, must permit delivery via telephone call during normal business hours. If written, *must be deemed mailed on date of postmark.*

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**Mainstar Trust** **SELF-DIRECTED IRA CUSTODIAN**

### Miscellaneous Duties

- No Duty to Inform Accountholder of the 60-day Rollover Rule
  - New Interpretation: The Bobrow case
  - Publication 590: “One RO per IRA” 12 month period
  - Tax Court: “One RO per AH” (not per IRA)
  - Problem: custodian does not know if accountholder holds IRAs at other FI’s, must rely on accountholder
  - Transfer instead of Rollover: no limit on # of transfers

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*SELF-DIRECTED IRA CUSTODIAN*

**Miscellaneous Duties**

- Withholding Requirements
  - Custodian must give option to withhold 0%, 10% or > 10%
  - If accountholder doesn't choose, custodian must withhold 10% unless distribution is less than \$200 (since 1983)
  - Should not tell accountholders how much they should withhold
  - Accountholder responsible for withholding penalty taxes

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*SELF-DIRECTED IRA CUSTODIAN*

**Miscellaneous Duties**

- Withholding Reminder
  - For distributions quarterly or more frequently, provide one notice per year at a reasonable time before the first payment each year
  - For distributions less frequently than quarterly provide notice no more than six months before distribution

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*SELF-DIRECTED IRA CUSTODIAN*

**Miscellaneous Duties**

- Required Minimum Distributions (RMD)
  - Custodian must send a notification or statement by 1/31 each year (accountholder = 70 ½ +)
  - Custodian must notify IRS: 5498, box 11
  - Must calculate if accountholder requests
  - RMD can be taken across all IRAs
  - Custodian not responsible for making sure accountholder actually takes RMD

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*SELF-DIRECTED IRA CUSTODIAN*

### Miscellaneous Duties

*Did you know?*  
10,000 people will reach the age of 70 ½ every day for next 18 years

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*SELF-DIRECTED IRA CUSTODIAN*

### Miscellaneous Duties

- Death Processing
  - Beneficiary/executor notifies custodian
  - Sub-accounting in place by 12/31 of year following death
  - Beneficiary is responsible for taking RMD timely

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*SELF-DIRECTED IRA CUSTODIAN*

### Miscellaneous Duties

- Death Processing, continued
  - IRS Reporting in year of death
    - Accountholder 5498: \$0.00 market value
    - Beneficiary 5498: Total (or proportional market value)
    - Whether sub-accounting in place or not

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*SELF-DIRECTED IRA CUSTODIAN*

### Miscellaneous Duties

- Divorce Processing
  - Divorce decree
    - Spells out who gets what
    - QDRO does not work for IRA

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*ASSET VALUATION*

### Quiz Time

- True / False?
  - The Custodian is responsible for valuing all IRA assets.

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*ASSET VALUATION*

### Quiz Time

- Answer: False
  - Custodians are responsible for *ENSURING THAT ALL IRA ASSETS ARE VALUED ANNUALLY* at a Fair Market Value
    - Value may come from pricing source, public record, or the Accountholder as per account documents
    - Berks& Gist cases: Custodian can rely on source believed by it to be reliable but custodian does not guarantee accuracy

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**Mainstar Trust** **ASSET VALUATION**

### Hard to Value Assets

- Real Estate
- Private Stock
- Limited Liability Company
- Limited Partnerships
- Private Notes

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**Mainstar Trust** **ASSET VALUATION**

### Hard to Value Assets

- Substantiation
  - Required or not?
- County Records
  - Acceptable or not?

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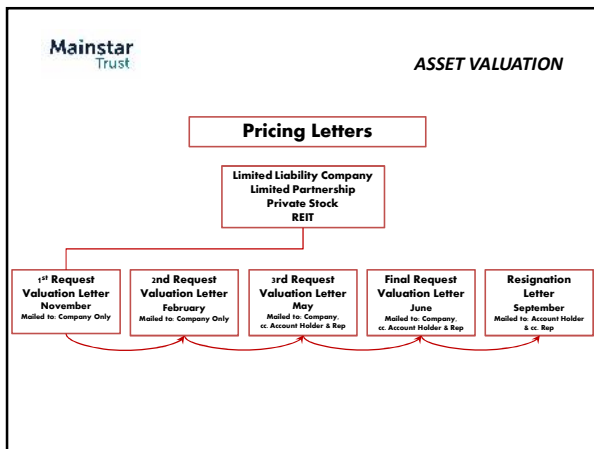
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**ASSET VALUATION**

### Hard to Value Assets

- FMV definition: "FMV = zero" vs. "worthless"
- Recent 11<sup>th</sup> Circuit case: Lamm (4/14/2014)
- Custodian assumed no liability for losses arising out of acct transaction except as caused by its negligence or willful misconduct
- Custodian's only duty is to follow accountholder's instructions
- Custodians perform zero "due diligence" for the accountholder's benefit—Buyer Beware!

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**ASSET VALUATIONS**

### Recent Litigation

- Lamm IRA v. State Street
- Brown v. California Pension Administrators
- Paszamant v. Retirements Accounts
- Tucker v. Soy Capital
- Hines v. Fiserv
- Mandelbaum v. Fiserv
- Abbot v. Chemical Trust

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**RECENT & UPCOMING CHANGES**

### Reporting for Hard-to-Value IRA Investments

- Reportable investments include:
  - non-publicly traded stock, partnership or LLC interests, real estate, options, and other hard-to-value investments.
- **Form 5498**, *IRA Contribution Information*, and
- **Form 1099-R**, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

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**Mainstar Trust** *RECENT & UPCOMING CHANGES*

### Reporting for Hard-to-Value IRA Investments

- Form 5498
  - New Box 15a—FMV of IRA investments
  - New Box 15b--type of investments by category code:
    - A - Stock or other ownership interest in a corporation that is not readily tradable on an established US or foreign securities market.
    - B - Short or long-term debt obligation that is not traded on an established securities market.
    - C - Ownership interest in a limited liability company or similar entity (unless the entity is traded on an established securities market).
    - D - Real estate.
    - E - Ownership interest in a partnership, trust, or similar entity (unless the entity is traded on an established securities market).
    - F - Option contract or similar product that is not offered for trade on an established US or foreign option exchange.
    - G - Other asset that does not have a readily available fair market value.
    - H - More than two types of assets (listed in A through G) are held in the IRA.

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**Mainstar Trust** *RECENT & UPCOMING CHANGES*

### Reporting for Hard-to-Value IRA Investments

- Form 1099 R
  - Box 7: Code K
    - Used in combination with codes 1,2, 4, 7, 8 or G

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**Mainstar Trust** *RECENT & UPCOMING CHANGES*

### DOL Proposed Fiduciary Rule

- Change the definition of fiduciary under ERISA to expand the scope of those who would become fiduciaries
- Brings IRAs & IRA custodians into the mix
- ??

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Thank You



<p><small>Minneapolis Office 333 South Seventh St. Suite 300 Minneapolis, MN 55402 Tel: 612.371.1008</small></p>	<p><small>New York Office 1275 Ave of the Americas Suite 4300 New York, NY 10020 Tel: 212.378.6730</small></p>	<p><small>Cedar Falls, IA Office 119 E 4th Street Cedar Falls, IA 50613 Tel: 866.384.2766</small></p>
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## About ITM TwentyFirst University



ITM TwentyFirst University was created to provide those individuals working with personal trusts and TOLI trusts a source of vital information to utilize in their practice. The course topics will include real life case studies that can be applied to day to day situations. Subject matter is designed to help Advisors provide better guidance and assistance to clients. Our faculty consists of sought after presenters who are experts in their related fields. The courses are offered for free and will carry Continuing Education (CE) credits. See *specific courses for CE listings*.

## 2016 Course Schedule - Free CFP® & CTFA CE Credits

### Buying and Selling Specialty Assets



**John Rowland, Portfolio Manager, PDS Services**  
**Wednesday, March 16, 2016 at 2pm EST**  
 • 1-HR CE For CFP® & CTFA (Financial Planning)

[Register Here](#)

This webinar will explore when is the right time and method to sell a specialty asset and what types of special assets to buy to increase cash flow. It will also discuss how to prudently invest the trust property to make it productive for the beneficiaries and when an asset becomes a cash liability rather than a viable money making asset for the trust.

### Developing a Compliant and Efficient Trust (ILIT) Administration Process



**Jason Hassman, Client Relationship Manager, ITM Twenty First**  
**Thursday, March 31, 2016 at 2pm EST**  
 • 1-HR CE For CFP® & CTFA (Financial Planning)

[Register Here](#)

Putting an efficient and compliant process around the administration of personal trusts is no easy task. But with logical procedures to follow the task becomes much easier. This session will provide the Trustee or Advisor with the actual process developed and proven for personal trusts, with an emphasis on life insurance trusts, one of the more complex trusts to administer. The session, delivered by a specialist in personal trusts, will provide the framework for success for those professionals working in this market.

### Pitfalls of Operations/Management of Specialty Asset



**Kip West, Chief Operations Officer, Brenda Trevino, Operations Manager,  
 Brett Helweg, Portfolio Manager, PDS Services**  
**Wednesday, April 20, 2016 at 2pm EST**  
 • 1-HR CE For CFP® & CTFA (Financial Planning)

[Register Here](#)

Unlike some asset classes, specialty assets can be a major headache for the operations and administrative staff of any fiduciary organization who does not have a separate special assets division or outside service provider. This webinar explores the pitfalls and handling of unique situations the assets create including revenue/expense processing, valuations, tracking timed events and ensuring all the boxes are checking according to your compliance requirements.

## Beyond Ratings: An Alternative Approach to Analyzing Life Insurance Financial Strength



**David Paul, Principal, ALIRT Insurance Research**  
**Wednesday, May 4, 2016 at 2pm EST**  
• 1-HR CE For CFP® & CTFA (Financial Planning)

[Register Here](#)

Trustees and advisors need to better understand the financial strength of life insurance carriers in this low interest rate environment we are in. The market crash of 2007 and the quick credit worthiness drop of AIG pointed out this lesson to all. Past life insurance debacles, like Executive Life and the more current struggles of Phoenix Life and Consecro have shined a light on carrier financials strength as an area that Trustees and Advisor's should be aware of. This session will provide the professional with a much greater understanding of gauging carrier financial strength and provide an insight inside carrier financials that, to this point, probably was not seen or understood.

## How to Make Sure Your TOLI Policies Are Competitive



**Michael Brohawn, CFP®, CLU®, Managing Partner, ITM TwentyFirst**  
**Wednesday, May 18, 2016 at 2pm EST**  
• 1-HR CE For CFP® & CTFA (Financial Planning)

[Register Here](#)

Many TOLI Trustees struggle to understand the concept of life insurance policy competitiveness, one of their responsibilities. This session will show the steps that need to be put in place to create a program to document the competitiveness of policies and how to deal with noncompetitive policies, including proper documentation to mitigate Trustee liability. We will also provide actual case examples to bring the process to life.

## 10 Questions Every Trustee or Advisor Should Ask Before a Client Purchases or Continues a Life Insurance Policy



**Barry D. Flagg, CFP®, CLU®, ChFC, GFS, Veralytic, Inc.**  
**Thursday, June 2, 2016 at 2pm EST**  
• 1-HR CE For CFP® & CTFA (Financial Planning)

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This presentation will provide Trustees and Advisor's with practical questions to ask before the purchase or continuation of any life insurance product in order to reconcile the difference between prevailing life insurance industry practices designed to sell a policy versus proven Prudent Investor principles designed to manage life insurance as an asset pursuant to the client's best interests. It is provided by an industry expert and one of the architects of the Best Practices for Life Insurance Stewards.

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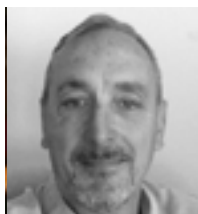
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