



FINANCIAL
PLANNING
ASSOCIATION

ORANGE COUNTY

Newport Beach, CA

WEBINAR MATERIALS

for

August 18, 2021



The *little* Things You Don't
Know that Can Cost You
BIG!

*Compliance Blind Spots &
Tips to Avoid Them*

Presented By:

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CHIVERS LAW, PLLC

This program has been accepted for one (1) hour of continuing education by CFP Board.

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Speaker

Kimberly L. Chavers, Esq.

Securities & Employment Law Attorney



CHIVERS LAW, PLLC

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Legal services dedicated to —

Protecting Advisers' most valuable assets ...
their licenses, reputation, careers & clients.

Representing financial advisers and investors nationwide in securities disputes and financial industry regulatory, compliance & employment matters, including:

- CFP Board Investigations, Disciplinary Proceedings & Appeals
- Financial Industry Employment Issues & Broker Transition Matters
- Expungement, CRD, BrokerCheck and Form ADV Disclosure matters
- State & Insurance License, Registration, Compliance & Disciplinary matters
- FINRA 8210 Inquiries and FINRA Enforcement Defense
- Bonus, Promissory Note (Forgivable Loan) Collection Defense
- Forms U4 and U5 Defamation Claims and Reporting matters
- FINRA Customer & Industry Disputes, Arbitration, Litigation & Mediation

Speaker Biography

Kimberly L. Chavers, Esq.

Kimberly L. Chavers is an attorney with Chavers Law, PLLC, which offers legal services designed to protect Financial Advisers' most valuable assets —their licenses, reputations, clients and careers. Ms. Chavers represents investors and advisers nationwide in securities, regulatory, compliance and financial industry employment matters. Her work with both investors and advisers sets her apart from the competition as she has gained insight and knowledge of the financial services industry and the respect of lawyers nationwide on "both sides of the aisle."

Ms. Chavers counsels, represents and defends financial advisers, investment advisors, IA Reps, and CFP® professionals in regulatory, compliance, disciplinary and employment matters in mediation, arbitration and litigation, and before regulatory bodies such as the SEC, FINRA and state securities regulators. She also prosecutes Form U-5 defamation actions on behalf of advisers, counsels and represents advisers regarding expungement of CRD and BrokerCheck Disclosures, defends registered representatives in promissory note and forgivable loan collection actions, counsels advisers as to how to transition successfully from one firm to another and provides other transition strategies and strategic consulting related to employment transitions, state and insurance license, registration, regulatory and disciplinary matters.

Born and raised in Sarasota, Florida, prior to entering the field of law, Ms. Chavers worked as the Director of Human Resources and Office Manager for one of the largest aluminum installation contractors in Florida. Ms. Chavers holds a B.A. in Business Management from the University of South Florida and earned her Juris Doctor from the Barry University, Dwayne O. Andreas School of Law, where she was published in Barry Law Review, has guest lectured in the areas of legal research and writing and securities law, and has drafted and implemented various legal research and writing workshops.

Before establishing her own law firm, Ms. Chavers worked as a judicial extern for the Florida Fifth District Court of Appeal and went on to become a partner at a Chicago-based securities and employment law firm, where she managed the firm's Florida law office located in downtown Sarasota, Florida.

Ms. Chavers has been invited as a speaker and panelist on several occasions for the Financial Planning Association, where she has led discussions on ethical vs. moral vs. legal behaviors; Practicing Ethics: Applying CFP Board's Standards of Professional Conduct; Complying with CFP Board's New Code and Standards, and has served as an advocate for CFP Professionals, providing insight and commentary on the CFP Board's Revised Standards and disciplinary processes.

As an advocate for both investors and individual financial professionals nationwide, Ms. Chavers is currently the President of The Financial Planning Association of the Suncoast, serves on the Board of FPA of Florida, and is a member of FPA's National Public Policy Council, the Public Investors Advocate Bar Association (PIABA), and the Sarasota County Bar Association.

Links & Resources

Registration/Licensing Resources

- [Create your Financial Professional Gateway account](#)
- [Contact Your State Regulator](#)

Click on your state, province or territory to find helpful resources, including contact information for state and provincial securities regulators and other resources those agencies provide.

- [Information For Newly Registered Investment Advisers](#)
- [U4 INSTRUCTIONS](#)
- [UNIFORM APPLICATION FOR BROKER DEALER REGISTRATION \(BD FORM\)](#)
- [FORM ADV PART 1 INSTRUCTIONS](#)
- [FORM ADV PART 2 INSTRUCTIONS](#)
- [FORM ADV #3/CRS \(CLIENT RELATIONSHIP SUMMARY\) INSTRUCTIONS](#)
- [Investor.gov](#)

Other Resources

- [Kimberly L. Chavers, Esq. LinkedIn page](#)
- [CHIVERS LAW, PLLC Website](#)

Financial Professional Gateway

New and Current Reps



Individuals who are or have been registered as a broker or investment adviser representative can now access their registration and licensing information via the Financial Professional Gateway.

This site contains information reported about an individual, including qualifications, employment history and disclosure events.

To view your record, please [log in](#) to the Financial Professional Gateway or [register](#) to create your Financial Professional Gateway account if you do not already have an account.

If you have any questions or require additional assistance in creating or logging into your account, **please contact the FINRA Gateway Call Center at (240) 386-4040.**

FINRA is available at (240) 386-4040 during core business hours, Monday through Friday from 8 a.m. to 8 p.m. Eastern Time.

➤ Frequently Asked Questions about the Financial Professional Gateway

[Click here to see FAQs and learn more about the Financial Professional Gateway](#)

STEP-BY-STEP Guide on How To Create your Financial Professional Gateway account

You will need the following information to create your profile:

- ☐ your US Social Security number or Individual CRD number,
- ☐ date of birth,
- ☐ current residential address,
- ☐ a business phone number, and
- ☐ a personal phone number and personal email address.

Your personal email is used to validate your account, complete the registration process, and reset passwords. FINRA recommends, but does not require, a business email.

1. Go to <https://finpro.finra.org/registerUser/> (You can click on the link provided or copy & paste it into your web browser) or click on [Create a FinPro Account](#)

2. Once you review the FINRA Privacy Statement, only if you agree, click “Agree”

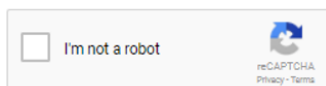
FINRA Privacy Statement



3. Complete the Registration information (Name, User ID, CRD Number, SSN, Date of Birth, Residential & Business address, phone number and email, etc.)

- 4.

Click



- 5.

Click the “Register” button




6. Complete the identity verification process.

STEP-BY-STEP Guide on How To Download / Print your FinPro Report

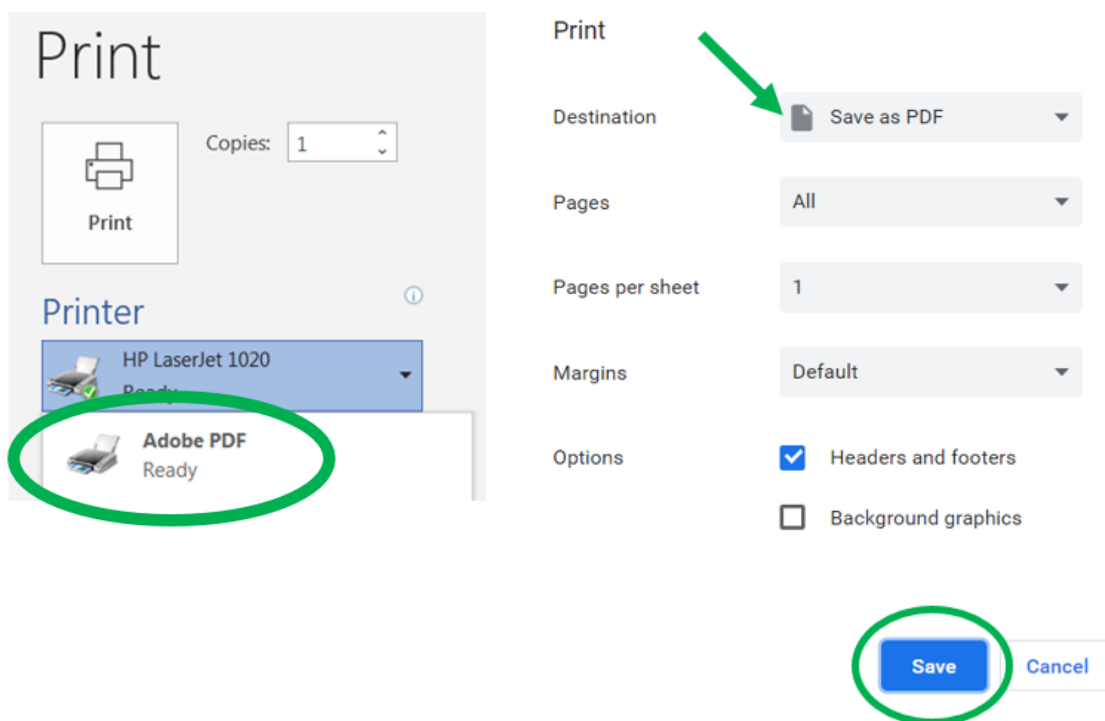
After you set up your FINRA Gateway account, please follow the instructions below to print/download a PDF copy of your FinPro report.

1. Log in to your Gateway Account
2. Look for **Print My Report** under the “I want to...” section on the right-hand side of the screen. This will print your entire record.

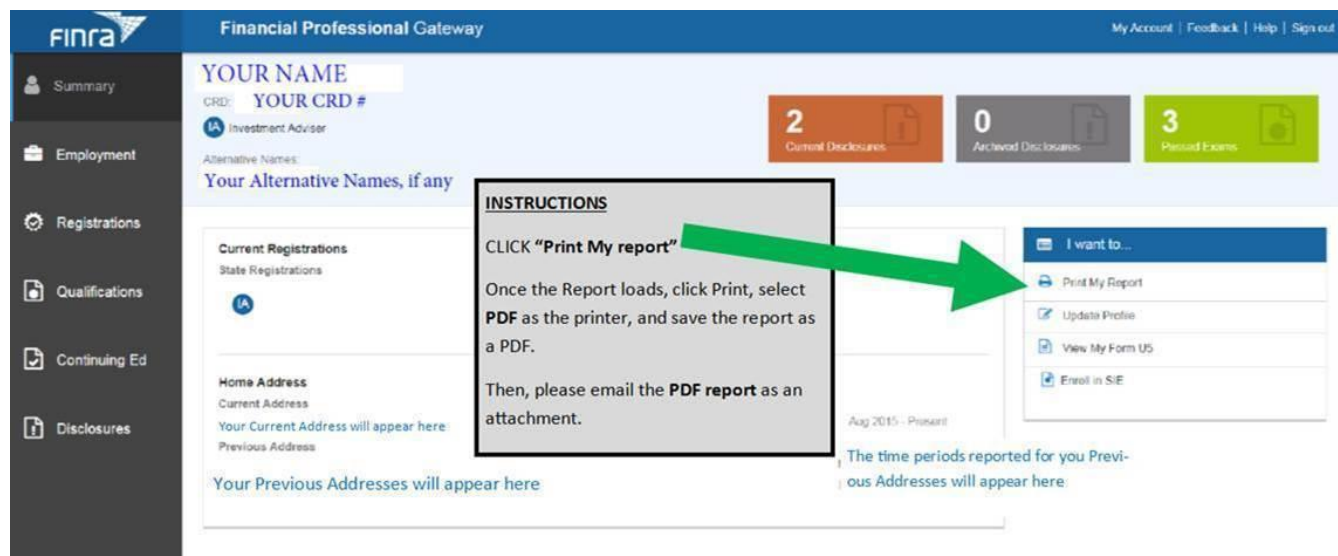
*** Visual instructions are provided below for your convenience*

3. Select 
4. Once the available printers to choose from appear, click “**Print to PDF**” or “**Adobe PDF**”

In the event “**Print to PDF**” or **Adobe PDF**” are not available printers or destinations. Simply print a copy of your report, scan it, and save it to your PC.



Print My Report – Visual Instructions



Technical Support and Troubleshooting

1. What should I do if I get a "System Error" message?

A "System Error" message indicates that something unexpected has happened while using the program. Please verify that you have internet access, and then close your browser. Restart your browser and log back in to the program. If the error persists, please contact FINRA at (240) 386-4040.

2. What should I do if I get a "System Is Currently Unavailable" message?

A "System Is Currently Unavailable" message indicates scheduled downtime for system maintenance. You should try again at a later time. Please restart your browser and then log back in to your session. If the error persists, please contact FINRA at (240) 386-4040.

3. What are the hours of operation for call support at FINRA?

FINRA is available at (240) 386-4040 during core business hours, Monday through Friday from 8 a.m. to 8 p.m. Eastern Time.

TIPS for REPS

- ✓ For your own records, it is highly recommended that you **save electronic and hardcopy records** of your ***FinPro record*** any time you access them (or at least twice annually) in the event you ever need to prove historical information that was on your CRD record and/or dispute information.
- ✓ Likewise, it is also recommended to **verify both the accuracy and completeness** of your FINRA Gateway information, including, but not limited to, your registrations, contact information, disclosure information and details, and all information on your ***FULL FinPro record*** — which can be done any time you access your account (and should be checked frequently).
- ✓ **Need to change or update the information in your personal FinPro record?**
 - Please contact your firm's compliance department and work with your firm to submit the information on the appropriate form filing.
 - If you are not with a firm, you can update your residential information within FinPro. Formerly registered representatives are **required** to inform FINRA of any residential address changes for at least two years after their last FINRA registration is terminated.

Based on FINRA Rules in effect as of: June 30, 2020

PowerPoint Slides

Continued on next page

The *little* Things You Don't Know that Can Cost You **BIG!**

Compliance Blind Spots & Tips to Avoid Them



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Your Speaker

Kimberly L. Chavers, Esq.

Securities & Employment Law Attorney

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their licenses, reputation, careers & clients*

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- Expungement, CRD, BrokerCheck and Form ADV disclosure matters
- SEC and FINRA Enforcement defense and compliance consulting
- Form U4 U5 defamation & other financial industry employment & transition issues
- State & insurance license registration, compliance & disciplinary matters
- FINRA Customer & Industry Disputes, Arbitration, Litigation & Mediation



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Compliance Overview

TRUTH OR DARE?

The financial industry is a heavily regulated industry and compliance is everyone's job.

IT's BOTH!

- Be an educated member of the team. READ, ENGAGE, SPEAK UP, LISTEN



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Compliance Overview



REGULATORS

SEC

States

FINRA

VOLUNTARY SUBMISSION

CFP
Board

Firm

Other

5

Registration & Licensing

- Who is required to register and Where?
- How do IA Reps and Registered Representatives get registered?
- What happens after I'm registered?

WARNING
UNINTENDED
CONSEQUENCES



6



COMMON MISTAKE

1

MISUNDERSTANDING

de minimis rules

But I only have 3 clients in that State, so I thought I was under the limit before I had to register.

I did not even know the client moved to another state.

7



COMMON MISTAKE

2

MISUNDERSTANDING

Designation
Waivers

I'm a CFP® professional, so I was told I did not need to register or be licensed.

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COMMON MISTAKE

3

MISUNDERSTANDING

Definition(s) of:

- “Investment Adviser Rep”
- “investments” and
- “securities”

I only recommend model portfolios or allocation; I don't manage any money or assets.

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COMMON MISTAKE

4

MISUNDERSTANDING

Firm vs. Rep responsibility

I have been Adviser for over 20 years with the same firm, how could I possibly not be registered?

I remember getting my fingerprints done and getting approved. I have the signed Form U4 right here!

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Other Causes of Unregistered Activity

X Firm Error

Firm Error is NOT a complete defense

The requirement to register is

ON YOU!





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What do you think costs the most in unregistered activity cases?

- a) Fines & Penalties
- b) Defense Attorneys' Fees
- c) State Investigative Costs



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Registration & Licensing

- How to Protect your Reputation
- **Verify your licenses and registrations today!**

[CREATE A FINPRO ACCOUNT](#)

BrokerCheck[®]
by FINRA

By clicking the **SEARCH** button or otherwise using BrokerCheck, I agree to **BrokerCheck Terms of Use**

at

 in

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How you may be in violation without even knowing it

- Failure to Disclose Outside **Business** Activities
 - Volunteer positions (FPA Chapter Boards)
 - HOA/Condo Boards
- But, it's NOT even a **"business"** !?!



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How you may be in violation without even knowing it

- Joint Clients & the Role of Powers of Attorney
 - ✓ **BEST PRACTICE** = POA Affidavits
 - *Life after the death of a client and POAs*
- Trusted Contact Forms
- Consent for Electronic Delivery of Required Documents
- Privacy Notice/Statement
 - *Unauthorized sharing of Non-Public Personal Information ("NPPI")*



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What is NPPI ?

LONG Answer ...

... is 90 pages



SHORT Answer

EVERYTHING is NPPI
unless:

1) You/your firm has confirmed

OR

2) the consumer has represented

it is available from a public source.

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Documentation Deficiencies

"An investment adviser must have a reasonable belief that the advice it provides is in the best interest of the client based on the client's objectives"

*Yours truly,
The SEC*



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Documentation Deficiencies

CFP® professionals must address incomplete information and collaborate with the Client to obtain current information.

*Yours truly,
CFP Board*



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Documentation Deficiencies

When you finally read
the fine print



Read your firm's
documents in their
entirety!

- Form CRS
 - *Compensation & Fees*
- Form ADV Part 2B
 - *Documentation for undisclosed events*
- Privacy Statement
 - *Third parties*
- Advisory Contracts
 - *Hedge Clauses & Waivers*
- Scopes of Engagement
 - *Limitations & Exclusions*

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Documentation Deficiencies

- ✗ Inaccurate information
- ✗ Incomplete information
- ✗ Inconsistent with other documents

Under CFP Board's New Standards

- ✗ Implementation, Monitoring and Updating
- ✗ Clients' Responsibilities
- ✗ Third Parties' Responsibilities

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Failure to Report Matters to CFP Board

- Expanded Reporting Obligations
- The Code & Standards vs. Releases
- The Ethics Declaration
- CFP Board Definitions
- 30 Days – **NEW!**

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Unintended Consequences



Trifecta







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Questions & Answers



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**Available for Consultation and by Appointment*

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