

He's a self-confessed cynic and believes that financial planning officialdom views him as a troublemaker and a "ratbag". Paul Resnik chose *IFA* to vent his frustration at an industry he has spent the past 20 years trying to change.

Matthew Smith reports.

For Paul Resnik the success of the financial planning is best measured by the satisfaction levels of clients – and he says by this standard the industry has undoubtedly failed.

"Our industry is full of dissatisfied clients. Look at the churn of managed funds and you will begin to see the extent of client dissatisfaction," Resnik says.

New data from Fund Market Monitor – a collaboration by researchers brilliant and Plan for Life – reveals that clients are increasingly exiting out of managed funds recommended by a financial planner. The research points to turnover of all platforms and single label funds over a period of time and defines turnover as: "net outflows during a year as a percentage of closing FUM (funds under management) for that year – this is the most conservative way to calculate turnover."

According to the researcher:

- Turnover of all platform funds has risen steadily from the mid 1990s from around 15 per cent to 22 per cent;
- The turnover of Australian equity platforms has risen from under 10 per cent in the mid 1990s to just under 20 per cent today;
- Although the turnover of Australian equity single-label funds has fallen from about 27 per cent in the mid '90s to just under 20 per cent today, turnover of increasingly popular multi-sector (growth) single-label funds has risen from 21 per cent in the mid '90s to 28 per cent today.

The root of people's dissatisfaction with financial planning, according to Resnik, is based on the way the industry has tied itself to product selling as the definition of advice.

"I'm not saying financial planners are bad. Where we are at now is an outcome of a system that is still addressing the problems of an industry that grew out of the product selling days of the '80s.

"The FPA tells us you need a licence because you sell product. The regulator and the Government have both agreed, by constructing FSR (Financial Services Reform Act), that financial planning is

about selling product. Therefore financial planning is inextricably linked to product. All this is contributing to the breakdown of a planners' fiduciary obligation," he says.

'Fiduciary obligation' is a requirement that financial services lawyer and partner of The Argyle Partnership, Peter Bobbin, cautions is likely to be the basis of any litigation clients will take against their adviser. The nature of the relationship a planner has with a client for the purposes of common law and the FSRA stem from a fiduciary background, according to Bobbin, and he says most planners don't understand or haven't even broached the concept of their fiduciary obligation.

"The definition of the fiduciary concept is the duty of care people have for each other. Fiduciary duty exists across a range of areas, for example, it is the responsibility superannuation trustees have to their members," Bobbin says.

"In a planning environment, fiduciary obligations cannot be denied because of the nature of the relationship planners have with their clients. Because of requirements under the Act, and specifically under the 'know your client' rule, clients need to disclose to you things they might not otherwise tell anyone else. This can be anything from personal issues like how many sexual partners they have, right through to sources of income they have that might not be legal. Trust is so inherently bound in the client/adviser relationship that planners can't avoid their fiduciary responsibilities.

"Any complaint or claim of misconduct against a financial planner will be measured in relation to their fiduciary obligations." (see Hartley Poynton versus Ali case overleaf)

Resnik says most financial planners fail to fulfil their fiduciary obligations. He believes the problem begins with front-end software and the current technology's design to aid planners in running their business.

"There is nothing wrong with that – in a product-centric world," Resnik quips.

Time for a disclaimer. Resnik has had a hand in designing and is currently involved in marketing via joint ventures, his own software – CARM (client acquisition and retention management) and risk management tool, FinaMetrica (formally known as ProQuest) – both of which work on getting clients involved in the discovery stages of a financial plan. His comments about financial planning are self-serving to a large extent, but they are inextricably a product of his belief that financial plan-

ners generally are getting it wrong.

"All the software being used by planners at the moment involves unintegrated calculators that don't even account for the opportunity cost of choosing one investment or plan over another," Resnik says.

He believes ProQuest (a risk tolerance tool that replaces what Resnik calls "portfolio pickers" otherwise known as 'know your client questionnaires') hit a raw nerve with the industry's stalwarts when it was launched in 1994 because it took away the part of the process that allows planners to use their intuition.

"The top planners who are good enough and have been doing it long enough can assess their clients but I argue the majority of the industry is not well trained enough to make decisions on behalf of their clients.

"The 'shadow shopper' results reflected that upwards of 80 per cent of the industry are at least struggling to give the right advice, and it's because they don't have the right tools," he says.

Resnik's world view is derived from his belief that "everyone" should be entitled to financial advice.

Take this as an example: A 30-year old with a house, a mortgage, a young child, a wife that works part time, no real investable cash.

"I would argue the best plan for that person is they need to be shown how to save an extra \$5,000 a year, reduce the mortgage, probably get more personal insurance. There are also lifestyle issues to address like whether the wife should start working full time and when the child is expected to go to school," he says.

"Most financial planners would send this person away because they are not likely to need to buy product.

"Some planners will take them on as a client; they will call it pro-bono work - usually for the son or daughter of a rich client - in the hope that one day they will have enough money in the future to invest in managed funds."

Resnik is disgusted by the use of the term 'pro-bono'.

"They use it as a way to describe work they won't be immediately rewarded for. It purveys a paternalistic mentality that is, quite frankly, patronising," he says.

"Financial planning should be a way to empower individuals to take control of their financial future."

Resnik places the blame for the waning of planners' awareness of their fiduciary obligations to clients squarely on the Financial Planning Association (FPA).

"I don't want to be at war with the

FPA, I want to use the arrival of the new head (Kerrie Kelly) to re-engage with the Association," he says.

Resnik has a history of engaging with the FPA. He was involved in starting a 'sub-committee' for the purposes of constructing a new set of standards for members' assessment of client risk tolerance. The sub-committee was disbanded after two meetings, and its short existence resulted in a report entitled 'Policy position paper on risk tolerance', that is still available on the FPA website; described by Resnik as a failure in its attempt to address the current inadequacy of planners' fiduciary responsibility to test their clients' risk tolerance.

June Smith, FPA legal counsel, admits planners' fiduciary obligations to their clients have been buried beneath their obligations to the law under the new legislation.

"A planner's fiduciary obligation is linked into FSR but most people are not sure what their fiduciary obligations are... We intend to refocus the fees and commissions debate for instance and make it relevant from the perspective of a planner's responsibility to their client in the context of the commercial environment," Smith says.

Smith still stands behind the views expressed in the risk tolerance report but she says planners' fiduciary obligations will be among a number of issues addressed in a review of the Association's code of ethics which is due to be completed around July this year.

Identifying the industry's shortcomings is one thing but finding solutions is another and Resnik admits he doesn't have the answers. If FSR starts with regulations on how to give advice around a product recommendation, he says there should be another set of professional standards addressing financial coaching.

"To do this the FPA has to figure out where it should sit. At the moment I think the Association is more like a trade union for product sellers. To be at the other end of the spectrum, the FPA would be solely there for the needs of clients and look more like a consumer group.

How should planners charge clients they are 'coaching' in their finances?

Resnik says that type of advice is likely to evoke a fee per hour.

"You have to ask yourself what you think your service is worth and ask for whatever you think you can get away with," he says.

"Clients need a coach. They can't do it by themselves, they need someone to discipline them, and everyone should be entitled to financial advice." ■■■