

## BANKING/ FINANCE

# 'O' No! Noted Adviser Ken Fisher Tells SEC to Ban Use of 'Advisor'

by Melanie Waddell

In rewriting advice rules for brokers, the U.S. Securities and Exchange Commission should “ban entirely” their use of the term “advisor,” and require those who work within the financial services profession to “accurately describe their role,” said Ken Fisher, founder and CEO of Fisher Investments.

In his July 31 comment letter to the agency on its three-pronged advice standards package, Fisher argues that the brokerage and advisory businesses “need clear, separate words to describe them,” as was intended by the Securities Exchange Act of 1934 governing brokers and the Investment Advisers Act of 1940.

Fisher argues that the word “advisor” should be “banned entirely,” as “requiring actors within the financial services industry to accurately describe their role is common sense and good public policy.”

Over the last few decades, Fisher told the commission, “brokers have intentionally blurred these [advisor/broker] distinctions by calling themselves ‘advisors’ and by offering more and more investment advice. The result is investor confusion.”

In separate comments to ThinkAdvisor on Monday, Fisher said that “advisor” reflects the use of the term in the Advisers Act, while advisor with an “o,” was introduced by brokers “as a way to get around the original ban on using the word ‘advisor.’”

Said Fisher: “I remember a time very well when the ‘o’ didn’t exist at all, and Series 7 registered folks couldn’t call themselves ‘advisors’ and were banned from that. The ‘o’ was just part of the flim-flam to get around that.”

Through “broker pressure and common media misuse much of the industry, your publication included, fell hook, line and sinker for the ‘o,’” Fisher said.

Fisher states in his comment letter to the SEC that while it is important for brokers to operate under “standards of conduct that protect investors, any further blurring, even if called ‘harmonization’ or branded with another catchy slogan, will only magnify the problem.”

Instead, he argued, the financial advice industry needs “disharmonization” — “clear, bright, red lines so investors know exactly what they are getting. Advisers versus Advisors language is a start.”

In particular, Fisher continues, “prohibiting brokers and their representatives from calling themselves ‘advisors’ or ‘advisors’ is a good first step.”



GILLIANNE TEDDER/ BLOOMBERG NEWS

**Ken Fisher, founder and CEO of Fisher Investments, argues that the brokerage and advisory businesses “need clear, separate words to describe them.”**

But he still doesn’t think it goes far enough.

The commission should “rule that only investment advisers not also registered as brokers are permitted to call themselves ‘advisors.’”

Brokers should be required to call themselves “brokers,” Fisher argues, while “insurance producers, financial planners, and anyone else who may want to give investment advice, should likewise be prohibited from referring to themselves as ‘advisors.’”

“Advisor” won’t be eliminated because that’s how it’s spelled in the Investment Advisers Act, Fisher told ThinkAdvisor. “‘Advisor’ and ‘adviser’ is an obvious confusion.”

Thus, Fisher says he’s is partial to the terms: broker, adviser and broker-adviser (for dual-registrants).

“But other realms could be created,” he said. “The point is simplicity and clarity.”

He added, “As it is, few investors as a percent of all investors have a clue what and who they’re dealing with in a registration and legal sense. Sticking close to the letter of the law isn’t a bad idea.”

As the SEC acknowledges, “investors are confused, thinking their brokers are investment advisers acting with their best interests in mind, contrary to reality,” Fisher states.

But the proposed Reg BI solution “is to adjust the wording that describes the duties the broker owes to an investor, while expressly stating that their intent is to not change the relationships that currently exist. This is all wrong. Some of these relationships need to be changed,” Fisher argued.

**Melanie Waddell covers regulatory and compliance issues. Contact her at mwaddell@alm.com. On Twitter: @Think\_MelanieW.**



## CITY OF DORAL NOTICE OF PUBLIC HEARING

All residents, property owners and other interested parties are hereby notified of a **Council Zoning Hearing** on **Wednesday, August 22, 2018, beginning at 6:00 PM**, to consider the following final plat application. This meeting will be held at the **City of Doral, Government Center, Council Chambers** located at **8401 NW 53rd Terrace, Doral, Florida, 33166**. The proposed final plat application applies to the property shown on the map below.

### RESOLUTION No. 18-

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING THE FINAL PLAT FOR GRAND AT DORAL, A PROPERTY GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NW 112 AVENUE AND NW 82 STREET, CITY OF DORAL, FLORIDA; PROVIDING FOR RECORDATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**HEARING NO.:** 18-08-DOR-06

**APPLICANT:** Pablo J Valdes Florida Irrevocable Trust

**PROJECT NAME:** Grand at Doral Final Plat

**LOCATION:** The subject property is located on the SE corner of NW 112 avenue and 82<sup>nd</sup> Street, City of Doral, Florida.

**FOLIO NO.:** (Parcel 1) 35-3007-001-0650 (Parcel 2) 35-3007-001-0640

**SIZE OF PROPERTY:** 8.51 ± acres

**PRESENT ZONING:** Multifamily Residential-3 District (MF-3)

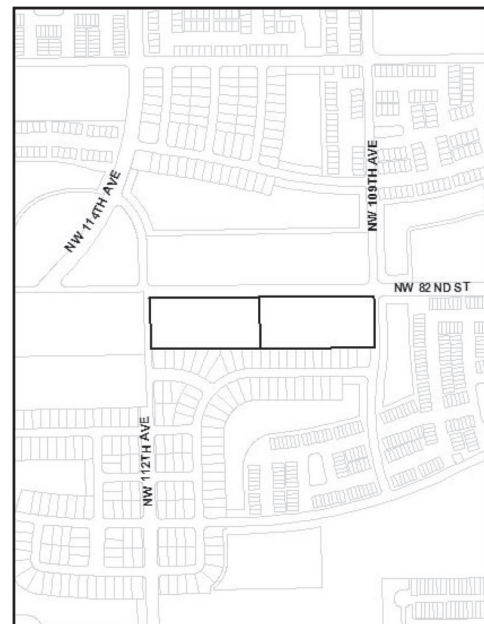
**REQUEST:** Pablo J Valdes Florida Irrevocable Trust (The Applicant) is requesting approval of the Final Plat for Grand at Doral.

**LEGAL DESCRIPTION:**

7 53 40 4.11 AC M/L, FLA FRUIT LAND CO SUB, PB 2-17, W1/2 TR 64 LESS W35FT & N35FT, SUBJECT TO CANAL EASEMENT.

7.53 40 4.35 AC M/L, FLA FRUIT LAND CO SUB, PB 2-17, TR 64 LESS W1/2 & N35FT, SUBJECT TO CANAL EASEMENT.

### Location Map



Information relating to the subject application is on file and may be examined in the City of Doral, Planning and Zoning Department located at **8401 NW 53rd Terrace, Doral, FL 33166**. All persons are invited to appear at this meeting or be represented by an agent, or to express their views in writing addressed to the City Clerk, **8401 NW 53rd Terrace, Doral, FL 33166**. Maps and other data pertaining to these applications are available for public inspection during normal business hours in City Hall. Any persons wishing to speak at a public hearing should register with the City Clerk prior to that item being heard. Inquiries regarding the item may be directed to the Planning and Zoning Department at 305-59-DORAL.

Pursuant to Section 286.0105, Florida Statutes if a person decides to appeal any decisions made by the City Council with respect to any matter considered at such meeting or hearing, they will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the City for introduction or admission of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law. In accordance with the Americans with Disabilities Act, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the Planning and Zoning Department at 305-59-DORAL no later than three (3) business days prior to the proceeding.

**NOTE:** If you are not able to communicate, or are not comfortable expressing yourself, in the English language, it is your responsibility to bring with you an English-speaking interpreter when conducting business at the City of Doral during the zoning application process up to, and including, appearance at a hearing. This person may be a friend, relative or someone else. A minor cannot serve as a valid interpreter. The City of Doral DOES NOT provide translation services during the zoning application process or during any quasi-judicial proceeding.

**NOTA:** Si usted no está en capacidad de comunicarse, o no se siente cómodo al expresarse en inglés, es de su responsabilidad traer un intérprete del idioma inglés cuando trate asuntos públicos o de negocios con la Ciudad de Doral durante el proceso de solicitudes de zonificación, incluyendo su comparecencia a una audiencia. Esta persona puede ser un amigo, familiar o alguien que le haga la traducción durante su comparecencia a la audiencia. Un menor de edad no puede ser intérprete. La Ciudad de Doral NO suministra servicio de traducción durante ningún procedimiento o durante el proceso de solicitudes de zonificación.

Connie Diaz, CMC  
City Clerk  
City of Doral  
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