

# FSI Voice

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FOR MEMBERS OF THE FINANCIAL SERVICES INSTITUTE

VOICE OF INDEPENDENT FINANCIAL SERVICES FIRMS AND INDEPENDENT FINANCIAL ADVISORS



## Speaking as one



*FSI membership grew by a big leap and a huge bound in 2011—and members made their voices heard. It's the power of more than 31,000 financial advisors speaking as one.*

At the end of 2005, the first year that individual financial advisors could be part of FSI, there were 2,834 financial advisor members. Now, there are more than 31,000, an almost eleven-fold increase. Financial advisors are coming into the FSI fold because they are increasingly seeing the concrete results of FSI's advocacy work. In just the last 12 months—only FSI's eighth year as an advocacy organization—FSI has had a number of high-profile "wins" thanks to the engagement and support of its members.

"There's no doubt we couldn't achieve these wins without the financial support and personal engagement of our members," says Keith Kelly, EVP and COO for FSI. "From the 150 members that participated in meetings on Capitol Hill during the Advocacy Summit to helping us successfully advocate for the repeal of expanded 1099 reporting requirements, amending California legislation that could have reclassified independent advisors as broker-dealer employees, defeating similar proposed legislation on independent contractors at the federal level and delaying implementation of the new FINRA suitability rule, these are all critical business issues that needed, and received, grassroots support from members. When I talk to potential and current members, I always ask, 'Which one of these issues should we have let go and let you suffer the consequences?' The answer is that this is an unacceptable question to have to answer, but one we might have to. If FSI is without the resources to aggressively engage on multiple issues, some have to be left out of the fight."

### *Making a major impact on Capitol Hill:*



In 2006, attendees at the first FSI Advocacy Summit held 66 meetings with members of Congress; year two, 83; year three, 74; year four, 110. This year, FSI members made a truly historic impact on behalf of all FSI members. The 2011 Advocacy Summit by the numbers:

- 150 members
- 40 teams representing 32 states
- 4 speakers from NASAA, FINRA, DOL and a former president's administration
- 256 meetings with members of Congress
- 350 cups of coffee
- 15,722 steps

► Read the article on page 6 about the tremendous success of the 2011 Advocacy Summit.

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The fight for independent financial advisors is even more critical given the channel's expected growth. According to an October 28 report from Cerulli Associates, wirehouse firms lost eight percent asset market share during the past three years and are expected to decline by 6,800 advisors during the next five years. Independent advisors are expected to grow by more than three percent during that period as independent broker-dealers and the RIA channel assume the wirehouse losses.\* A three percent gain would bring an additional 5,600 advisors into the independent channel, making it 194,000 strong. But, says Kelly, "That means there's a 164,000 gap in what our real power could be. If we can accomplish what we've done with 31,000 as one voice, imagine what we can do if all advisors in this channel joined and became engaged with our advocacy efforts." Stronger numbers always make the story more powerful, especially in Washington. "I use the term 'Washington' to describe our entire advocacy focus," says Kelly, "and it is still and always will be a place where numbers matter. For example, even at a meeting of only three FSI members and one senator during the Advocacy Summit, it's powerful for a broker-dealer member to be able to say, 'Our firm's advisors have 23,000 clients in your state.' Or for an advisor to tell her senator that 63 percent of her firm's middle-class clients would be negatively affected by her inability to serve them on a commission basis."

For the past several months, many of FSI's broker-dealer members have been helping with member retention through their year-end licensing process, championing the cause of financial support and member involvement. More important, several broker-dealers have assumed a leadership role on FSI membership,

offering fully-subsidized first-year memberships to their affiliated advisors. "If you're an advisor with LPL or Cetera, you know that your broker-dealer has placed a high importance on FSI's value to you and your business and is taking a stand for continued strong advocacy for the independent channel," says Kelly.

Advocacy is FSI's primary mission and always will be, reminds Kelly. "Ask a colleague in California about what our advocacy efforts there meant in 2011. Legislation introduced there earlier this year would have levied significant penalties—up to \$25,000—on firms deemed to be misclassifying employees as independent contractors. Although its intent was to track down and punish tax- and benefits-evading employers in all sectors of the economy, its passage would have jeopardized the independent contractor status of 59,309 financial advisors in California whose broker-dealers would have borne a costly and time-consuming burden of proving that their affiliated financial advisors are not employees. Those advisors are real people with real clients, but they also are the kind of 'numbers' that we feel like we're accountable to," says Kelly.

\* As reported in *financial-planning.com*, October 28, 2011

## Let them tell you

Being part of FSI is about more than just being a member.

*"FSI plays a critical role in giving advisors with independent broker-dealers the same clout and strength as the major wirehouses. It's imperative we use that clout. My team and I met with seven congressional offices during the Advocacy Summit. We serve as a catalyst for helping people think about the important issues. It's rewarding to be a part of the process of advocating for positive change."*

— Kive Strickoff, CPA, president, Strickoff Financial Services, affiliated with 1st Global

*"I recently asked for time on a FNIC regional directors meeting to talk about my experience in Washington and with FSI overall. Every advisor should be writing letters to his or her representatives in Congress. It's the easiest thing you can do. The harder thing to do is nothing. We must make sure we position this channel properly in Washington. Otherwise, somebody else will do it for us. And in a way we might not like."*

— Paul Ried, president, Paul Ried Financial, LLC, affiliated with FNIC



## A broader advocacy reach

*In 2011, using a new five-year strategic plan, one of FSI's goals was to "expand the vision." After an incredibly successful year, in 2012 the mission is to expand influence, engagement and the already-impressive roster of results.*

In September, when the Department of Labor (DOL) withdrew its proposed new definition of "fiduciary," something it had been working on for a year, Dave Bellaire described the advocacy win as a textbook example of how the process of advocacy should work. "We know that DOL will bring this back in some revised fashion in 2012, and we'll be ready," says Bellaire, general counsel and director of government affairs. "But the important part is how all the pieces of our advocacy strategy worked to get the proposal withdrawn. What it really illustrates is an organization speaking with one voice, working in coalition with other trade associations, bringing in outside experts, getting in front of the right members of Congress and encouraging strong grassroots engagement by our members."

In almost eight years, FSI has moved from a narrow advocacy focus—based simply on staff capacity—on FINRA and SEC rulemaking and a "soft" advocacy strategy for Capitol Hill to a broader reach of issues, both at the federal and state level. "In the first several years, we spent an enormous amount of time educating members of Congress on our business model. Even though there's regular turnover in Congress, I think it's fair to say by sticking to our core messages, there's a much greater understanding in Congress about the role our members play in what is turning out to be the fastest-growing segment of the financial services industry. FSI is far more relevant to policymakers than I think many people would have anticipated a few years ago, and we're really a very valuable contributor to the debate."

(continued on page 4)

## On Capitol Hill: Carefully cultivated relationships



*Even with a full-time presence in Washington and a significant increase in advocacy staff in 2012, FSI narrows its focus on relationships with members of Congress to those most influential on FSI members' issues.*

Obviously, the organization can't cultivate a deep relationship with all 61 members of the House Financial Services Committee, for example. The more important point, according to Dale Brown, president and CEO, is that FSI has clarity on the purpose of relationships with members of Congress.

"We are unapologetically clear that we are advocates for this industry and that we are seeking to influence the outcome of important public policy issues so that our members can operate in a healthy regulatory environment," says Brown. "Every relationship we pursue is in support of that goal. We don't pursue relationships just for the sake of relationships. That said,

the people we are dealing with are human beings just like us and we engage them with integrity and respect. That includes making sure they understand what the 'other side' will say on an issue. We worked hard to get the support of Rep. Spencer Bachus, chairman of the HFSC, on legislation for a potential SRO for investment advisers. Thankfully, he is taking a strongly leadership role on that. If, as part of our engagement with him, we downplayed or ignored what he might hear from people who disagree with our position, he could get blindsided, and our integrity and influence would be undermined. In Washington, where there are so many competing voices, credibility is crucial."





## A broader advocacy reach (continued from page 3)

In 2011, the debate included aggressive efforts on an issue critical to the foundation of the independent broker-dealer and independent financial advisor business model: preserving the status of independent contractors. A victory in the fall of 2010 at the federal level, defeating a proposed bill that would have revised current tax law governing employment status determination, became a focus of an expanded advocacy capacity to engage at the state level and *another* textbook case—one that would have had serious consequences for 2,000 FSI members. In California, Senate Bill 459, if passed as originally written, could have reclassified independent advisors as broker-dealer employees. By engaging an experienced contract lobbyist in California, submitting letters to the bill's sponsors and various committee chairs, participating in coalitions of industry and non-industry groups and facilitating both a letter-writing campaign by FSI members in California and constituent meetings with assemblymen, “we had a large voice in Sacramento,” says Matt Schwartz, government affairs counsel and FSI's leader on state issues. “We got the result we wanted—an amendment that in no way negatively affected our financial advisor members—through both our efforts and those of our members.”

As state legislatures gear up in January, Schwartz expects more states to propose independent contractor legislation in 2012—“It's an easy target for states to raise funds”—as well as new taxes on financial services (seen in South Dakota, Hawaii, Pennsylvania and Michigan in the past) and additional taxes on small business owners that could sweep in independent financial advisors. In addition, some states may be eyeing legislation that could impede investors' access to advice—a current bill in the New York state legislature would require an advisor working with seniors to have the CFP® designation, regardless of securities licenses the advisor may hold. All of this suggests that FSI's stronger focus on the states is going to be critical to protecting members' interests. The 2012 strategy rests heavily on continuing to strengthen the relationship with the North American Securities Administrators Association (NASAA), one that's been cultivated for the past two years. Schwartz and others have regularly met with state securities regulators—in eight states in 2011 and including with the president-elect of NASAA—and continue to schedule meetings with NASAA section leaders for broker-dealers, investment advisers and enforcement, in addition to the NASAA board of directors. “The fact that Jack Herstein, the current president of NASAA, spoke at our Advocacy Summit is evidence of an improved and growing relationship,” says Schwartz. “We both know the issues on which we disagree, the biggest one being a separate SRO for investment advisers, but his appearance at the Summit proves that we're constructively and effectively engaging with regulators.”

After discussions with some key FSI volunteer leaders, FSI submitted a letter to NASAA in early October to seek participation in a study just underway on uniformity of securities laws among the states. “If we're involved, it will not only help NASAA create a more comprehensive report, it continues to raise our profile within NASAA,” says Schwartz. “There's no question that states are becoming much more relevant to our advocacy strategy. Our relationships with those policymakers is extremely important to the health of our members' businesses.”

## High probability/high impact

*Membership growth and an enhanced revenue stream from dues increases for broker-dealer members will allow FSI to significantly expand its advocacy team to take on more of the issues affecting its members.*

“Because of the nature of how issues arise, especially at the state level, which can sometimes be unexpectedly, a stronger and deeper team will allow us to respond quickly with focused expertise,” says Bellaire. “We can prepare for the issues we see coming down the road, laying the groundwork to be highly effective advocates for our members' positions. Adding experts in taxation, small business, retirement plans and specific state issues will give us the strength we need to make sure we can address what we call the high probability/high impact issues.” For 2012, those issues are:

- Securities regulatory issues—fiduciary duty, broker-dealer disclosures as a consequence of fiduciary duty and FINRA RN 10-54
- Taxation and retirement issues—access to advice, new taxes on small businesses such as financial advisor practices
- State issues—independent contractor status, new taxes on financial services

► To read more about the 2012 Advocacy Priorities, please go to the Advocacy Action Center on [financialservices.org](http://financialservices.org).

*As state legislatures gear up in January, Schwartz expects more states to propose independent contractor legislation in 2012.*



## Joe Russo, 2012 FSI board chair:

*“There's no question in my mind that FSI is a serious and weighty player in the financial service industry as a result of the accomplishments of the last eight years.”*

In 2012, Joe Russo will be the first financial advisor to chair the board of FSI, after five years of volunteer engagement with FSI, including chairing the Financial Advisor Council in 2011. Russo has more than 30 years of experience in financial services. He currently is chairman and CEO of Advantage Financial Group (AFG), the premier OSJ of National Planning Corporation, which has 54 branch offices.

Q Joe, discuss your experience as vice chair, your expectations for being chair in 2012 and your own leadership style.

A Vice Chair is an interesting spot to fill—it's an excellent vantage point to learn and develop positions. I've had the good fortune of learning from Bill Dwyer, who has done an outstanding job as chairman this year. Various personality profiles find me a “high I”—frankly, inspiration is the only leadership style I own. Having said that, after 40 years in this industry you learn to be pragmatic in order to produce results and if you're an independent business owner results must occur if you're going to stay in business. I hope we can inform and inspire financial advisors to make a difference in their lives and the lives of their clients by enthusiastically supporting the common interest represented by FSI.

Q What do you point to as the most significant accomplishments of FSI in 2011 and since its founding?

A One that may have received the least press—this year was the first full year that FSI executive offices were located in Washington. We absolutely had to have Dale Brown, our CEO and chief advocate, in the mix inside the beltway. Dale and David Bellaire and the whole advocacy team

have been incredibly successful on a number of regulatory and political issues this year: on the independent contractor issue in California and, most recently, a major victory when the DOL withdrew its proposed new definition of “fiduciary.” I'm sure we'll see it again, and that's one reason we addressed it in meetings with members of Congress during the Advocacy Summit.

FSI has now reached critical mass, both in terms of size, with 124 broker-dealer members and 30,000+ financial advisor members, and in terms of influence. Almost eight years of growth, the move to D.C., the addition of advocacy staff and the reputation for reasoned excellence have produced a most effective organization. Political and regulatory interests now reach out to FSI seeking our input on critical matters. We have developed alliances with other organizations to magnify our efforts. There's no question in my mind that FSI is a serious and weighty player in the financial service industry.

Q How will FSI's influence be felt in 2012?

A We'll fight to prevent the enactment of dangerous and damaging regulations, such as round two from the DOL on a proposed new fiduciary rule, one that clearly disenfranchises the investors of middle America. Layer upon layer of regulations do not make the investor any safer; they only serve to drive up costs, especially for the small investor. Our industry has a wonderful culture of compliance. Until our partners in the regulatory realm recognize this culture exists, we must defend our practices with robust and well-reasoned engagement. In 2012, several key issues will come to a head—defending 12b-1 fees, the FINRA rulebook harmonization, a new fiduciary standard, various state efforts

to tax financial services—and FSI's team of seasoned professionals is well equipped to handle them. No question—2012 is going to be a critical year in terms of advocacy.

Q What advice would you give the SEC or FINRA chair?

A I would tell them that we are not the enemy. We are the good guys! We all want transparency, competency, protection for our clients and a culture of compliance. Those charged with the protection of our industry should ask the industry how best to accomplish these common goals by placing the good guys in a position to help, rather than in a position of self-defense. I do think FSI has reached a turning point with Rick Ketchum, chairman of FINRA. He makes himself available to us, he seeks FSI's input and issues are discussed openly, even if we agree to disagree. He's making a difference in the culture at FINRA.

Q What's the most important thing you've learned in your five-year association with FSI?

A Prior to my involvement with FSI, Washington seemed like a large black hole into which you pour money, time, talents and efforts, but get nothing back. As you fly deeper into this space, you find there are efforts that do make a difference. Common challenges breed commonality and solutions result from efforts to resolve shared concerns. So I better understand today that banding together with like-minded individuals to address or redress these shared concerns does produce progress. Our industry and businesses are better as a result—even in Washington, all interests can be served.





# FSI 2011 Advocacy Summit:

*Some people go to Washington for the sights. And some go on a mission.*

Of the 150 FSI members on the Advocacy Summit mission, some were there for the first time; others have been multiple times. Two teams, Alabama and Oregon/Washington, took the prize for most shoe leather expended—nine meetings. This year, two financial advisors had the proof that good shoes come in handy—both Roberta Cole, of Minnesota, and Bob Fitzsimmons, of Nebraska, wore pedometers to record their day on Capitol Hill. Fitzsimmons came in at 12,124 steps and Cole at 15,722—or roughly 6 and 7.2 miles, respectively. The issues of the day were the Department of Labor's (DOL) proposed rule to amend the definition of "fiduciary" and the need for improved investor protection through FINRA oversight of investment advisers, with the FSI-proposed solution of FINRA as a new SRO. Of the members of Congress in the 260 meetings, many were already familiar with the DOL proposal (recently withdrawn for further study); 73 had already written letters to the DOL.

A tremendous success that continues to lay the groundwork for advocacy on these two issues highly important to members' businesses, the story of the 2011 Advocacy Summit is best told through the voices, and steps, of four attendees.



Bob Fitzsimmons



Pat Farrell



Roberta Cole



Paul Ried

## Bob Fitzsimmons

*"We understand—and we're with you."*

Already a veteran of an FSI-sponsored visit to Washington—in May, with the Financial Advisor Council—advisor Bob Fitzsimmons of Lincoln, Nebraska, says that this day on Capitol Hill exceeded all expectations he had. "It certainly started off on the right foot," says Fitzsimmons, "when Ben Nelson, one of our Nebraska senators, walked in the room and said that the DOL must be stopped on this issue, that in his opinion it is totally out of their purview. He's correct when he says that there is absolutely no customer demand or need for this."

Paired with fellow Nebraskan Tracy DeWald, SVP and general counsel for Securities America, Fitzsimmons made the case in their meetings for how the individual advisor and middle-income client could be seriously hurt by the DOL's proposal, while DeWald led the conversation about an SRO for investment advisers. In every case, says Fitzsimmons, they were treated with respect and an attitude of concern for how the issues will affect real clients. In Fitzsimmons' case, they are mostly retirees who need ongoing advice and guidance as they prepare for the later stages of life. Fitzsimmons worries less about how these issues will affect his practice than he

does about those advisors who will come after him. "I'm well established and can cope with changes, but what motivates me to pay my own way to Washington is concern for my clients and the future of our industry."

## Pat Farrell

*"You have been heard."*

Pat Farrell, president and CEO of Investacorp, attended the Summit for the second time. "FSI did a masterful job of orchestrating this event for maximum effect. It was so well organized," he says. Farrell and his Florida team met with six different congressional offices. He found that nearly everyone was already familiar with the DOL proposal—a major component of what the team had come to share. "Because of FSI's tireless work in representing our industry, it's now a 'known' entity. Everyone knew who we were when we got there, and there was no lack of awareness to overcome." Senator Bill Nelson told the Florida team, "You have been heard. We all know that unintended consequences are not just theory."

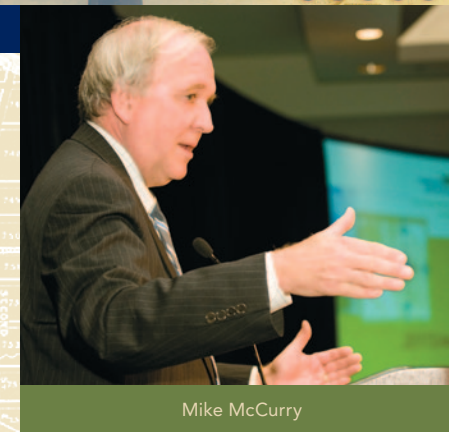
Members discuss the fiduciary proposal with Michael Davis, deputy assistant secretary at DOL.



Alabama team members meet with Rep. Spencer Bachus (far left), chairman of the influential House Financial Services Committee.

*"Show commitment in every advocacy action you take. Those 4,000 letters from FSI members to the White House had a huge impact, resulting in the administration saying to DOL: 'Think this through carefully.'"*

—Mike McCurry, press secretary for former President Bill Clinton



Mike McCurry



Farrell also came away with a sense of appreciation about what it means to literally "go to Washington." "What's impressive about America is that any citizen can walk the halls of Congress and provide his or her perspective as a constituent," he says. "Having direct access to these congressional offices was amazing. It was a pleasure being a part of shaping their thinking about our niche of the industry. I want members to know that this is the type of event that gives every voice a chance to be heard."

## Roberta Cole

*"Telling the story in different ways"*

After 33 years in business, Roberta Cole, CFP®, has handled just about any financial issue her middle-class clients bring to her. And she's quite sure that members of Congress need to hear their stories. Like

the one about the 70-year-old client with cancer who came in with documents from her former employer essentially saying "We can't help you anymore with your 401(k)." Cole's staff brought her in and less than an hour later, Cole had solved the problem. "If this DOL rule is passed, I won't be able to help this kind of client," says Cole. "But who else is going to?"

Cole and the Minnesota team made the rounds to six members of Congress in four buildings spread across Capitol Hill. Particularly powerful, says Cole, is that all five of the Minnesota financial advisors have different practice focuses—"We all told the middle-class client story, but in slightly different ways." In their first meeting of the day, Rep. Erik Paulsen asked that the team deliver a message to other members of Congress from Minnesota: Tell them I've sent a letter to DOL and ask them to, as well. Cole's personal goals for attending the Summit were exceeded—"I wanted to experience how FSI is representing our industry and I wanted to see how I could do it. This is easy for any advisor to do. We can't just let our politicians say that Americans aren't being responsible for their own retirement when they don't know what the risks to our clients are."

## Paul Ried

*"A 2,757-mile journey for a four-minute story"*

In one of the smallest groups—two people, one from Oregon and one from

Washington—but with one of the busiest days, at nine meetings back-to-back, Paul Ried realized that seven of the meetings were his to lead. Having spent days reading through FSI's background material, Ried felt confident enough after the role-play training before the Capitol Hill visits to be able to deliver the message on the DOL issue in a four-minute unscheduled meeting with his own congressman, Dave Reichert, after thinking the team would be meeting with a staff member. "A huge nod to FSI for having us so well-prepared," says Ried. "It was the equivalent of my own elevator speech."

Ried went to Washington in fall 2010 with a small group of broker-dealer executives to meet with members of Congress about the independent contractor issue. But that experience didn't compare to the full day of the Advocacy Summit. The "clockwork precision" day left him satisfied to see the importance placed on being a constituent, especially when one staff member thanked him for "coming all the way to Washington to talk to us." Ried recently spoke about his experience at a FNIC meeting of regional directors, urging his peers to both financially support FSI and to do their part in being engaged. "We *must* be on top of all the proposed changes to our way of business. If we're not attentive, things will happen to us that we won't like. Advisors can't sit on their hands and let 'other' advisors do the work for them."



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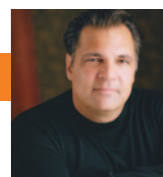
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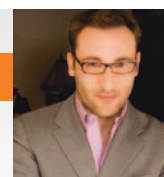
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registration for  
**OneVoice 2012**,

the annual broker-dealer conference, closes December 16. The annual “don’t-miss” conference includes keynote speakers Dr. Stephen Mansfield, best-selling author, popular speaker, and a highly respected voice on modern culture and leadership, and Simon Sinek, a visionary thinker and author of the best-selling “Start With Why” book on the Golden Circle principles of leadership. OneVoice also features a panel of broker-dealer CEOs, on how leading firms are responding

to the complexities of changing and complex regulation, 24 educational sessions in 6 tracks (including a new Technology track this year), meeting time with representatives of 56 of our sponsor partners and closed-door discussions with your peers. OneVoice is January 23-25 at the Omni ChampionsGate in Orlando. For all



Dr. Stephen Mansfield



Simon Sinek

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