

LOSING IN ARBITRATION • EVENSKY ON INDUSTRY TURMOIL • LONG-TERM CARE

FEBRUARY 2000

Financial PLANNING

EMPOWERING ADVISERS TO PLAN BETTER FUTURES



Place In The Sun

Nigel Taylor, who took on the CFP Board and won, is on a hot streak. What will his next move be?

www.Financial-Planning.com

1999 MUTUAL FUND PERFORMANCE RESULTS

A PLACE I

Nigel Taylor has proven that the little guy can have a

“Y

ou have magic fingerprints,” says the magician, “and now that you’ve shuffled the cards, I can see your fingerprints on certain cards and predict certain things about you.” Nigel Taylor, the person to whom the magic fingerprints belong, looks nervous—not so much about what the cards have to say about him but about them being said in front of a reporter. Taylor has set the stage of our first face-to-face meeting in a Santa Monica, Calif., restaurant co-owned by one of his entrepreneur clients along with, of all people, Arnold Schwarzenegger. In this environment, no one could possibly have a bad word to say about him surrounded as he is by friends, clients—even his fiancée. He is safe, except the presence of this magician is quite literally a wild card. ■ Why all the nervousness? Maybe because Taylor is seen as a bit of a wild card himself. At 46, Taylor is by many accounts the angry young man of the financial planning profession, known for his vociferous opposition to certain initiatives introduced by the Certified Financial Planner Board of Standards, such as practice standards and the aborted Associate CFP designation. ■ He doesn’t wear this label gladly. In fact, he believes the financial press has unfairly painted him as an arrogant, fiery upstart. He balks at adjectives the media use to describe him: He is never just opposed to something, he is “vehemently opposed”; never just critical, but the “most vocal critic.” He was even described in a recent magazine as the Institute of Certified Financial Planners’ most outspoken critic, despite the fact that he was president of the ICFP Los Angeles Society in 1999 and led the group to David M. King Outstanding Society of the Year honors. ■ Not that Taylor

Photographs by Mark Robert Halper

needs the press to help him stir things up. He is a prolific debater in chat rooms, in opinion columns and at industry conferences. Anyone who has logged on to his Web site (www.proteccassets.com), the ICFP’s Web site or *Financial Planning Interactive* can read outspoken critiques by Taylor, written sometimes on a daily basis. Those who know and love him say he is indeed outspoken and passionate about his practice, his ICFP Society presidency and

IN THE SUN

big voice—and get heard. BY MELISSA PHIPPS



the future of the profession. Those who know and don't necessarily love him would probably agree.

"When he begins working on something, he gets emotionally involved with it and takes ownership," says Gordon Peay, a friend of Taylor's with the Financial Planning Association in Los Angeles. "He takes it personally; that is the root of some of the controversy. He so firmly believes in what he does that that is the result."

The passionate and conspiratorial way of thinking driving Taylor to love his profession yet lack trust in its leaders has helped him emerge as a compelling presence in the financial planning industry. By being obstinate in his debates, he has helped give a voice to the rank-and-file, especially last year, when they were feeling particularly stifled by the CFP Board and its Associate CFP initiative.

Many say Taylor was instrumental in the board's decision last September to rescind that initiative. Once he saw reports of a rumored "CFP lite," Taylor and a few other members in his society established a Web site dedicated to opposing the designation. He posted comments from planners and members of the board, as well as his own lengthy treatises on the subject. Before the initiative was announced—indeed,

Friends and colleagues in the Los Angeles society credit Taylor for helping them win the society-of-the-year award. "He had a vision at the beginning of the year of what he wanted to accomplish and he accomplished those goals. It's kind of like what you do in financial planning: You define your goals and then you set up a strategy to achieve them. That's what he did," says Randi Levenbaum of the FPA Los Angeles.

Taylor considers the award a symbol of legitimacy in the eyes of the profession, but he feels his "troublemaker" reputation still gets more attention.

Taylor was considered a handful even in his youth. Born in Southern England, his mother and father separated when he was 3½ years old, and he was placed in a series of children's homes, off and on, until age 15. "I was obviously severely maladjusted as a child, but nobody bothered to find out why back in the '50s and '60s. It was easier to label me a bad kid and transfer me back into the homes."

At 15, he was forced into the Boys Service branch of the British Army, where he says he faced racism (his grandfather hails from the West Indies) and bul-

"As long as FPA remains CFP-centric, and lives up to their agreement, we will have a united front and move into the new millennium," Taylor says.

before Robert Goss and Harold Evensky of the CFP Board would even acknowledge its existence—Taylor had discovered and announced that the board had registered two trademarks, "Associate CFP" and "CFP Associate." Taylor's persistence helped give voice to the outrage and helplessness felt by members of the planning community, and it paid off. The board not only admitted its error, but also recognized that it had not been communicating effectively with its members.

However, Taylor's successes last year weren't only the result of being an opponent. His work as president and self-proclaimed "Web master" for the ICFP Los Angeles society produced a Web site that gets more than 20,000 hits per month from members and the general public, and functions as a tool to market society meetings and membership. With it, the society doubled and in some cases tripled attendance at regular meetings while cutting meeting costs by 96.9%.

lying from his fellow soldiers. The last straw, he says, came on a night when a group of six boys, who had been reported and demoted for harassing him, graduated and were looking for revenge. "I was left hiding in a broom cupboard in the squadron office clutching an axe for protection in the middle of the night while these guys roamed the barracks trying to find me for a lynching party. They never did find me, but I decided a 'life of comradeship and discipline' wasn't for me and left in 1970."

Taylor then found himself homeless, doing a series of menial jobs and sleeping in a field and then, when he could afford one, a car. He worked his way to a room in an apartment and a job as a telephone engineer for the postal service, and began participating in and winning disc jockey competitions on a part-time basis, eventually pursuing it as a full-time career, first in Vienna and then touring throughout Europe.

The DJ career made him what Jung would call an

THE PLANNING WORLD ACCORDING TO NIGEL

“In my conversations with them, I have concluded that Harold Evensky and Bob Goss want many of the same things I do,” planner Nigel Taylor says of the chairperson and president, respectively, of the Certified Financial Planner Board of Standards in Denver. “They want to see the bar raised and more competence, ethics and professionalism in the profession of financial planning.”

How that bar is raised is where the contention comes in. Taylor is known for speaking his mind when it comes to what he would like to see happen in the financial planning profession—especially when it is in opposition to the board. But we asked him to speak his mind once more, for the record.

While the CFP Board has championed practice standards, Taylor was perhaps the most vocal member of the minority opposing them. He does so to this day, saying mandatory written standards bring an increased amount of civil liability for performing the same tasks as other licensed professionals. Don’t believe, however, that those opposed to practice standards are unethical people who don’t want written standards cramping the style of their lying, cheating and stealing, he says.

Taylor has also been particularly vocal in his advocacy of state licensing, whereas members of the CFP Board feel that state or federal licensing with such high standards as the CFP license is impractical at this time. The board, Taylor says, is therefore opting to enforce much higher standards on CFP licensees without the benefits of a restricted profession and without a federal or state mandate to do so, while looking for ways to lower the bar to a level they feel states will accept. “I would love to get 20 politicians in a room and give them a choice of working up a financial plan with a CFP licensee, stockbroker or insurance agent and see whom they chose. It might be fun to have three plans drawn up just to see what the others might miss,” he says.

“I have always subscribed to the ‘don’t ask, don’t get’ philosophy. The public is only served and properly protected when financial planners are regulated at the state or federal level by a government or ‘quasi government’ entity that can investigate, subpoena, punish and bar a financial planner from practice in the event of wrongdoing,” Taylor says. “Consumers need to be made aware that ‘investment’ is not synonymous with ‘financial’ when it comes to advice and that financial planners need to be regulated in the business and professions code separate and distinct from the registered investment adviser statutes, because financial planning encompasses so much more.”

It’s pointless to have a set of teeth creating civil liability, but a situation in which the regulating body admits in writing (as he says the CFP Board did in its brochure “A Measure of Trust”) that they have no real authority and can neither order planners to reimburse clients or prevent a bad licensee from dropping the mark and continuing to call himself a financial planner. “This is not their fault, and they cannot be faulted for wanting to do a good thing,” he says. “I just disagree with the method.”

He feels that modifying the code of ethics with the same language would be more than sufficient. Why? “Because many appeals courts have already held that higher ‘voluntary’ standards in any profession are to be encouraged, and the courts will not generally use voluntary higher standards to increase civil liability over the level of damages assessed a person licensed to perform the same tasks, but who has not agreed to follow the higher voluntary standards.”

Mandatory practice standards create a different problem, he says, but by their own admission they can only be applied to CFP licensees, which creates a higher level of civil liability for licensees for the same task. “An argument could be made that the standards could be applied to anybody practic-

ing financial planning,” he says. “I am not sure if this would be true and I think the insurance and securities lobby and their lawyers would have already come out in violent opposition if it were.” If it were true, he adds, these industries should be entitled to consultation before regulation.

Taylor agrees that competence, ethics and professionalism in financial planning should be promoted through attainment of the CFP mark, but disagrees in creating a quasi profession. “I’m for CFP licensees beginning a grass-roots effort to lobby the states and getting something done in the direction of providing true protection for the consumer. [Goss] and [Evensky] seem to be more for ‘Let’s create a private model and hope the state likes it enough to adopt it.’” This attitude is not necessarily wrong, he says; he just doesn’t agree with it. “I think [Goss and Evensky] would support state licensing if they could get the CFP standard as a minimum. They just feel it’s not realistic, from what I understand,” he says.

“We share concerns about how financial planning is regulated now,” Goss says of himself and Taylor. “Neither of us have felt that financial planning should be regulated as a subset of investment adviser regulation. [Taylor] would prefer state-by-state legislation. I think some of that may have some drawbacks.” He adds that he has concerns about things such as lack of uniformity, limits on the practice and costs of regulation. Other practitioners worry about involving state legislatures because these bodies can become subject to lobbying efforts of other industries like banking and insurance with far more largesse to dole out to individual legislators.

“I’ll always be tilting at windmills though, and who’s to say what’s realistic? More weird things have happened when enough people get involved,” Taylor says. “What’s really needed are good solid statistics that will convince legislators just how important this job is, and why regulation is needed.”

“extroverted introvert,” he says. Taylor took on an aggressive, even arrogant air as a means to keep up with the competition and the crowd. He says he also learned how to constantly observe people; to read how they feel and what they want.

In 1986, Taylor left the whirlwind life of a DJ and came to the United States to work with a friend in the 403(b) market. The connection may be more logical than one would think, he says. “It seems like a stretch but it’s not. Salesmen don’t sell product, they sell themselves. What do you think I’d been doing for the past 15 years?”

Taylor quickly made himself at home in the insurance profession and began branching into other areas of interest, most notably the 403(b) plan market for employees of nonprofit organizations. “The retirement planning naturally led to other issues of importance for my clients, namely estate planning.” His career was going fine, until he had an embarrassing moment in 1991 that became a turning point. A prospect brought her husband, “a big-shot tax lawyer,” to meet with Taylor. “He started asking me questions. A tax lawyer has vastly superior knowledge to an insurance agent—and I was an insurance agent who only sold 403(b)s. He literally ran circles around me, made me look stupid and showed me the door,” Taylor says. “At first I was upset. You can turn that into a negative and let it eat you up.”

But he didn’t. In Taylor’s “if you hit me with a stick, I’ll hit you back” mindset, this incident was incentive to gain more knowledge about the profession. Prior to that point, his only formal education was an associate-level training by the British Army in preparation to be a radio relay technician. After that incident, Taylor attended local courses offered by the College for Financial Planning, as well as other industry programs.

He became a CFP licensee in 1993. He has since worked to promote its value to other professionals in the insurance and securities arenas who claim to be financial planners, but are seriously lacking in a solid education in financial planning. “I thought I was doing pretty well, but honestly I didn’t know an awful lot about it, which is why I fight for regulation.”

That fighting spirit, and prodding from fellow Los Angeles-based planner Gibb Kerr to join the local ICFP society, has entrenched him in the politics of the profession as well. “We’re known as a radical society, but nothing we say is really that radical,” Taylor contends.

When many in the profession were fighting for

practice standards, members of the Los Angeles society were lobbying against them. Several members of the society oppose the CFP Board’s ambition to become a self-regulatory organization. When there are conspiracy theories floating around the profession, there is a good chance that they are floating around Los Angeles—they most likely originated there. “Southern California is the most litigious [area], so maybe we take our fiduciary duties more seriously than they do in Anytown, U.S.A.,” Taylor says.

Taylor was against the merging of the ICFP and the International Association for Financial Planning, though despite prior threats of not becoming an FPA member, he says he will join. In fact, he is this year’s chairman of the FPA Los Angeles. “The membership has decided. This isn’t Nigel’s society, it’s the L.A. ICFP. As long as FPA remains CFP-centric, and lives up to their agreement, we will have a united front and move into the new millennium. If they stray off that course, I and a few other fellows will go off and form a new society. But we have to go into it in good faith.”

With the merger completed and CFP lite laid to rest, Taylor had been campaigning for state-by-state licensing and legislation. Now he has decided to take himself out of the political forum, at least for the time being. “I’m cutting back on the pro-bono work and doing more Nigel work. For the past two years, I’ve been marketing the ICFP, not Nigel. My practice has been devastated the past two years because of my work with the ICFP,” he says.

Not that he regrets it. He says his volunteerism has helped him gain experience and expertise, give back to the profession and gain a reputation. “There are two ways to make it in this business. One is to slash and bash and churn and burn nonstop until you have an incredible book of business. Then there is a slower method that people take. My client base is going to increase soon.”

His fee and fee-offset practice has a current client base made up of an odd mix of everything from pensioners, entrepreneurs and Internet start-uppers to teachers and lower-income families from his 403(b) days (because “they deserve my loyalty,” he says). “That’s my problem with practice standards, because you are doing a lot of work for which you aren’t going to get paid.”

But Taylor is best known for his work in the areas



“I lack diplomacy, if you want to put it that way,” says Taylor. “You can’t go through what I went through and not come out as damaged goods.”

of retirement, estate and asset protection planning. Not yet a U.S. citizen, Taylor has found a niche working with European clients doing business in California. He is fluent in German and Swedish and registered as an investment dealer and adviser in Europe. Handling offshore estates, in addition to protecting other clients in what he calls a litigation-obsessed city, has led him to become somewhat of an expert in the area of asset protection.

His Santa Monica, Calif.-based practice does not take assets under management currently, but he anticipates he may have to in the future. He says his practice is in a transition period. For the first time in two years, he is actively taking on new clients and hopes most of them will be of the high-net-worth variety. “Most of my clients until now haven’t wanted to deal with anything other than having a portfolio of

mutual funds you can move around,” he says. With new, wealthier clients, he says, come new and different demands. He has also started working with younger doctors and lawyers who are looking for assistance in debt reduction.

Taylor’s career is in transition as well. Like so many in the profession, he is contemplating whether to remain a sole practitioner, become part of a larger institution, or develop a partnership or agency. He also has lately been encouraged to develop Web sites and ghost-write articles for other planners—a direction in which he could see his career heading if he receives enough interest, he says. “That’s the wonderful thing about this business—the possibilities are endless,” he says.

In the meantime, Taylor is working on taming his reputation. This year, he will marry his fiancée Maria, and the two look forward to settling down and having

children. "Maria has really helped me. If you think I'm bad now, you should have seen me 10 years ago," Taylor says.

"You could think of him as a diamond in the rough, but over the years he's become very polished around the edges," says Martin von Kanel, a friend and colleague. "He knows his place and can talk with people and has made relationships with adversaries. I think over time, he'll begin to realize that no one is out to get him."

Levenbaum agrees. "Because he has received some criticism from colleagues and friends, he has smoothed out some of the rough edges."

Taylor agrees, to some extent. "I lack diplomacy, if you want to put it that way. You can't go through what I went through and not come out as damaged goods. Diplomacy comes with age and experience. When you first get into this and you think no one is listening, you kick down the doors and scream at the top of your lungs. Nowadays, when I send out an e-mail to 1,000 people, I know a certain number of people will read it. I can say things more quietly."

Moreover, Taylor believes his edges aren't so much rough as misunderstood, as in his dealings with Goss and Evensky. Though he has publicly criticized their decisions in the past, Taylor says he likes and respects them both. "Everyone thinks that I am like this with Bob and Harold," he says, using his silverware to

ion. I also think a profession is something that's characterized by professional courtesy and civility. I would say that for any CFP licensee," he says.

Taylor admits he has a big mouth, but thinks everyone should when it comes to something they care about. "I don't care whether you're for something or against it, you should have an opinion about it, express that opinion and represent your membership," he says. "I would love to see more participation. There are some brilliant minds out there."

Many who know Taylor think his is one of those brilliant minds. Some have even suggested that he would be an ideal candidate for the CFP Board of Governors. Levenbaum believes Taylor would be an ideal candidate for a spot in a professional think tank, if such a thing existed. "I see him as a watchdog of the profession rather than a leader," she says.

"I don't think anybody realizes the number of hours Nigel has put forth for financial planning and financial planners. His practice has suffered because of it. It takes a very special kind of person to do that," Levenbaum adds.

"There are some people who think his opinions are too biased, but I think if it weren't for him, we wouldn't know as much as we do about the profession," von

"I don't think anybody realizes the number of hours Nigel has put forth for financial planning and financial planners," says Randi Levenbaum.

demonstrate two tracks crashing into one another. "Really, we're like this," he says, laying the fork and knife parallel. "We want the same things. We just go about it differently."

Goss agrees, and thinks of Taylor as one of the profession's emerging leaders. "Nigel and I share common passion for much greater levels of involvement among CFP licensees. He is an engaging and thoughtful fellow, has a lot of energy and a wide [range] of interests."

That energy makes him a vital member of the debate, adds Goss who, like Taylor, is sometimes frustrated by the apathy among many practitioners. "I welcome the debate and think that's healthy. I think a profession is characterized by great differences of opin-

Kanel says. "He's been instrumental in ensuring that the designation maintains its integrity."

Though Taylor says he isn't interested in leadership—especially not in the near future—he also acknowledges that it will be tough for him to keep his nose out of the politics of the profession. He says he has 1,000 e-mail addresses and a Web site that costs him \$20 per month, and that is all he needs to get the word out. "It's important stuff. You don't want to be ruled by radicals, whether from the left or right."

Back at the restaurant in Santa Monica, the magician has little to say. It seems even he doesn't know what's in the cards for Nigel. The relief on Taylor's face is unmistakable. He relaxes, and tells me: "I love this business. I really do. And you can quote me on that." **FP**