The Cardinal Rules for Retirement Plan Providers

By Ary Rosenbaum, Esq.

I have been an ERISA attorney for 14 years and while I took two retirement plan law courses while I was getting my tax LLM degree at Boston University School of Law, it never prepared me for my career as an ERISA attorney. While the books they use at law school will tell you the law, they just won't tell you how to act as an ERISA attorney. I learned how to act as an ERISA attorney because of my experience and because I learned from some great people like my paralegal Marge Tracy and the best 401(k) salesman I ever knew, the late great Richard Laurita. As a retirement plan provider, you also didn't get a book either that told you how to act and behave as a plan provider to your clients and working with other providers. There are some lines you should never cross and cardinal rules that you should never break. This article is some cardinal rules that I have developed for my own practice that maybe of use to you in your practice. Some of them are rather obvious and some are just my opinions of what I have seen in almost 15 years in this business.

The Client Comes First

I know it's a cliché, but it's true. The needs of the client always comes first, even in front of finding a way for you to get paid. That means that your services as a retirement plan provider needs to meet the needs of the clients first and everything else comes second, I guess this is where I have to tell you like a child that you shouldn't steal from your clients, but there are a few folks out there that they think their clients' retirement plan assets are their piggy bank. Not only is stealing from your clients is wrong; you're also likely to get caught.

Never Compete Against Your Friends

People have asked me whether I offer financial advisory services and administration work and the answer is no. While I don't have the license to offer financial advisory services or the competence to provider third party administration/recordkeeping, I don't want to compete against the very same people who refer me business (financial advisors and third party administrators (TPAs). Producing TPAs have this problem all the time

because their financial advisory business does essentially compete against financial advisors that have referred them business. With this added dilemma, producing TPAs should limit the marketing of financial services they offer so that financial advisors should feel confidence that they are not taking their clients to a competitor.

Never steal business from your friends

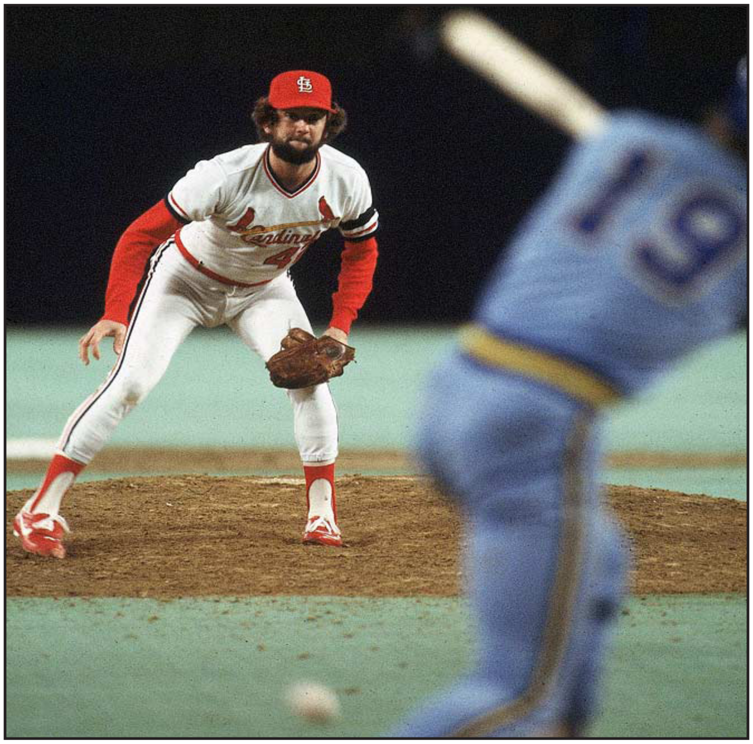
The retirement plan industry is a very close-knit community and your reputation precedes you because everyone knows everyone. If you steal business from your friends, it will be talked about and your reputation will end up in tatters. Again, this is a dilemma for the producing TPAs. My friend Rich Laurita would take this even one step further; he wouldn't solicit TPA or financial advisory business from any potential client that in the past had fired a financial advisor he was working with. Your reputation is your biggest business card, refrain from any antics that will create chatter in this industry that you shouldn't be trusted.

Never make referrals to make a personal profit

With any business, you want to try to monetize anything that you can do legally and ethically. One thing you should never do is make referrals because it earns you money. When you make a referral, it should be a good thing to refer great providers of products and services to those plan sponsor clients that need that help. Any referral is about helping people out, it's not about helping you out. So many times a payroll provider TPA is referred a client by a broker because that payroll provider feeds the broker leads. So the broker makes out, but does the client if the payroll provider's service is inferior. Whether it's a referral fee, finder's fee, kickback, or to wet your beak, it's wrong.

Don't turn on people who refer you business

I rarely get to make client referrals to financial advisors because 99% of the clients I'm referred already have existing financial advisor relationships. When I was working at that semi-prestigious Long Island law firm (sorry, Lois), I reacquainted myself with a financial advisor and his boss, who was a frequent contributor on CNBC and Fox Business News. I referred this financial advisor; a plan sponsor client and I also introduced them to one of the law firm partners who became their client. I never received any business in return and that's OK. Fast forward a year when I open up my own practice, and I was informed that the head of this RIA firm told the financial advisor not to work with me anymore because this law firm partner said an unflattering thing about me which was unprofessional and inaccurate. Needless to say, the head of that RIA firm lost that plan sponsor client and a potential pipeline of business. Always treasure those who refer you business, that are why my friend Rich is still revered in this business almost 7 years after his death. He knew how to treat his referrers of business, which kept a steady pipeline of TPA clients coming his way.



Know what you don't know and don't handle what you don't know

You can't be everything for everybody, whether you are a TPA, financial advisor, or taco stand. At my college in Stony Brook, there was a school newspaper that started to compete against the incumbent Statesman (which I later proudly served as an editor and columnist) called U.S.B. Weekly. Their motto was "know your limits and surpass them." Of course, the paper never came out weekly and died after about 3 issues. When it comes to being a retirement plan provider, know your limits and don't go beyond that. So if you are a TPA that only administers daily valued 401(k) plans, it's not a good idea to be offering defined benefit plan services. If you are a financial advisors and only handle plans with balances over $25 million, handling a start-up plan isn't a good man. As Dirty Harry said in Magnum Force: "a good man always knows his limitations."

If you screw up, take the blame

We're all human and despite our best efforts, we all make mistakes. Even the best plan providers make mistakes, but what separates the good providers from the not so good providers is that good providers will hone up to their mistakes. Bad providers will try to make excuses or throw people under the bus. I worked for a TPA where the previous ERISA attorney made a serious error in claiming companies were not part of a controlled group when they clearly where. Rather than just admitting their error, the chief operating officer was telling the client that there were some controlled group rules changes that corresponded with my view that the companies were part of a controlled group. Your word in this business is your bond and if your client's can't trust your word, then you have nothing. Clients like honesty and they don't like being lied to. If you made an error, accept responsibility instead of making excuses or throwing some other plan provider under the bus.

Don't take advantage of other providers

The retirement plan business is all about relationships, with your clients and other retirement plan providers. In order to augment your business, one of the best things you can do is work with other retirement plan providers who are more than willing to provide you with free help with your current and potential clients. As many of you know, I take calls from all retirement plan providers around the country because I value relationships in this business. If you're a financial advisor, a TPA and ERISA attorney are great sources for help. If you're a TPA, an ERISA attorney is a great resource if you don't employ one. The reasons that plan providers offer guidance and help to other providers because these providers want to start relationships with potential referrals of business. So if you never have any intent to work with these providers and recommend them to clients, don't ask for their help. Don't consistently ask for help from a provider when there is no way they can get clients through you. Again, I have an open door policy with plan providers around the country (try me, call or e-mail) and I'm happy to say that after talking to hundreds of advisors, there was only one provider who I can say ever took advantage of my help.

Don't give anything away for free

Your time is valuable. Your service is valuable, so why would you give it away for free? My view is that your time and work is valuable and if you give you something for free, it really has no value to the one receiving that free service because they feel that it's not worth anything if they get it for free. Free services is not the same as getting a free IPad for signing up with a cable provider because people can assign a value to an IPad and have no idea the value of a service. Giving something away that's valuable such as a full-blown plan review for nothing devalues the value of your services because it has no value to the person who gets it for free. They will always look at your services as cheap or not worthy of a fee.

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