THE ROSENBAUM LAW FIRM P.C.

ADVISORS ADVANTAGE
A Publication for Retirement Plan Professionals

How Retirement Plan Advisors Can Benefit From Any New DOL Fiduciary Rule.

Any change is a time to get an advantage.

One of my favorite companies is Netflix. The first time I came into contact with them, it was through an offer that was in the box of the first DVD player I bought in 2000. Instead of rentals through Blockbuster or Hollywood Video, I used them. They eventually helped put Blockbuster and Hollywood Video out of business. Sensing that digital formats and the potential of web streaming video was the future, Netflix took the huge expense of adding a streaming service because they didn't want to be the next Blockbuster Video where renting DVDs by mail was going to be obsolete. They even sunk $100 million into producing House of Cards and more money into Arrested Development and Orange is the New Black and people thought they were crazy. What Netflix proves is that change can be a good thing as long as your embrace change. If you don't change with the times, times will change you.

To read the article, please click here.

Avoid Other Providers Who Are The Sticks in The Wheels of Progress.

They will cost you money.

I had a friend of mine in college who was involved in student politics like I was and he once proclaimed to the school newspaper that he was "the stick in the wheels of corruption." 20 years later, I have used that line many times. In law school, I was "the stick in the wheels of hypocrisy." You get the gist.

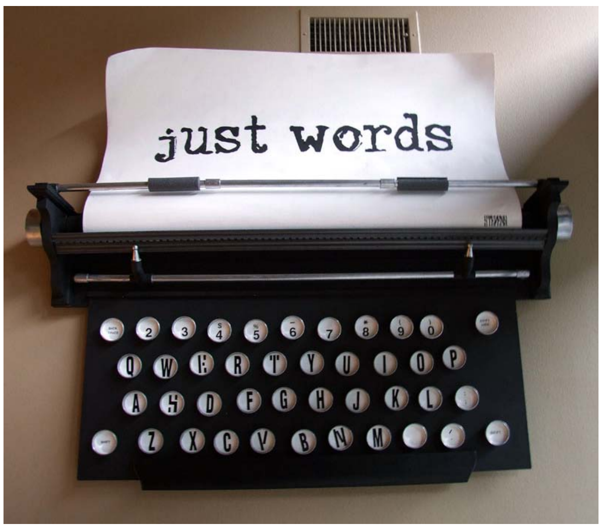
In business and in life, one of my problems was having to deal with depending on others. Most people didn't have the enthusiasm that I have may have for something or trying to get work done so I can get paid. When I was working for that law firm and I had this dream of building a national ERISA practice, there was nothing worse than depending on the law firm management to approve my articles and marketing materials in either a timely fashion or in the same structure I submitted as.

So many times I will hear from plan providers who lament that their work is held up by depending on other plan providers such as the advisor who has to work with a 3(38) advisor or an advisor who is dependent on a third party administrator to get back with on a proposal. Every retirement plan provider is busy, but if someone is consistently causing you to delay your work, then maybe it's time to depend on someone else.

Time is money and you can't afford retirement plan providers that are wasting your time.

Sometimes it's just words.

That's all it is.



So much of any industry is dedicated to marketing, because marketing can help a company sell a product or service just based on how it's marketed. Whoever sold the pet rock is still probably laughing all the way to the bank.

In the retirement plan industry, there are quite a few marketers who can take a normal product or service that most providers offer, but make it sound more important than it really is. Sort of like Big Mac's special sauce, which we all know to be Russian Dressing.

I remember a few years back of a third party administrator that I work with who developed this special professional services pension plan which was geared towards professional service companies that offered a pension with participant direction. All it really was, was a cash balance plan with participant direction (before PPA 2006 made participant direction in a cash balance plan impossible).
Look at the folks who offer fiduciary warranties where the provider neither serves as a fiduciary nor offers a warranty that will ever be used. As a friend of mine pointed out, the insurance providers who offers these warranties make money by insuring risk, so what does it say about those fiduciary warranties if they are free?

I can't wait for the ERISA 3(16) or 3(38) fiduciary to call themselves a retirement plan concierge or butler to make what they do sound better for the masses.

The point is that as a retirement plan sponsor to make sure what you are getting in plan services, because a euphemism is a euphemism and that doesn't protect you more than what contractually is being offered.

Never let a client get that angry.

Try to defuse the situation..

Retirement plan providers can
never be arrogant when it comes

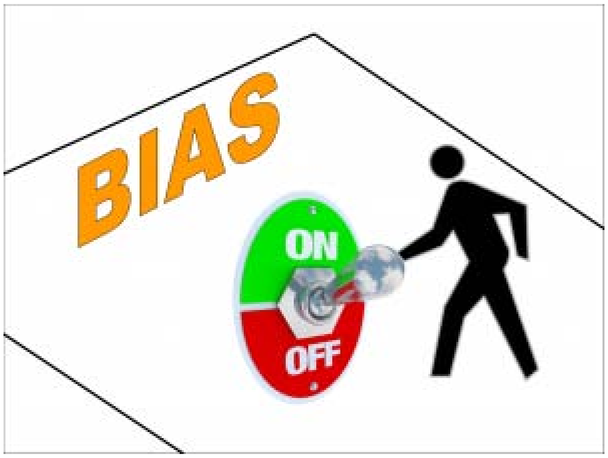
to the gripes raised by their clients. If clients have an issue with your service, you can't discount because anger festers and boils over into an irreversible cycle that gets you fired. If something goes wrong, you have to offer an explanation why and you just can't come up with an excuse when it's convenient for you. You need to be hands on and nip problems in the bud. Clients have a right to know why something goes wrong and you can't just offer an explanation when it's time for the client to renew their service agreement with you or pay your bill.

For every relationship that went sour in my life, the reason 100% of the time was a lack of communication. Whether it's one side or both sides, the lack of communication festered into an anger that irreparably damaged the relationship. A retirement plan provider can't afford to be arrogant because there are dozens of other competing providers ready to replace you.

Constant communication is one of the great tools that a retirement plan provider can have in preserving their relationship with their clients, so it's key that you are in frequent communication and never take advantage of their business, their trust, and their goodwill. Otherwise, you may be out of a job.

My Bias against self directed brokerage accounts in 401(k) plan.

Just my two cents.



Just like the thought of traveling to Dubai with a passport that says "Ary Rosenbaum", I have a general uneasy feeling about the use of self directed brokerage accounts within 401(k) plans. While it's still allowed, I have some liability concerns with plans offering them. Choice can be a good thing with a 401(k) Plan, but too many choices aren't a good thing. The problem I find with brokerage accounts is three fold.

1) Plan sponsors actually need to vet brokerage account providers, as well as providing investment education and/or advice to those who partake in these accounts. I don't think any hold harmless agreements by a plan participant who invests in these account will do any good because a plan sponsor has a fiduciary duty to all plan assets. It also doesn't help that plan participants who use brokerage accounts do worse than participants who use the plan's core fund lineup.

2) While most of these firms who offer brokerage accounts are professional services organizations, many tend not to offer it to all participants (which can bring up plan discrimination as it pertains to benefits, rights, or discrimination). I once belonged to a 401(k) plan where the partners had brokerage accounts, but associates and staff weren't given that option. Sorry, Pat.

3) Whether it's through litigation or regulation, I think there is a lot of unsettling fiduciary liability issues that may come up further down the pike where plan sponsors will regret offering brokerage accounts.

Just my two cents and my bias against participant directed brokerage accounts within 401(k) plans.

Then there was none.

Retaining employees is important.

One of the biggest problems of being a company in any type of business is recognizing talent and rewarding talent. A company that fails to recognize and reward talent will eventually see a talent exodus that will be problematic because it will help the competition.

When I have worked for third party administrators (TPA), I saw the talent exodus first hand of people who either started their own TPA or became heavyweights in the TPA business.

I am reminded by it first hand of my two-year sentence/tenure at the New York City based office of a semi-prestigious Long Island law firm. There were four of us in that office that were associates and I'm sure that the hopes of each of us would be to make partner there. While I had the pie in the sky idea of starting a national ERISA practice that people laughed at, the other associates were excellent attorneys that were very personable. One associate was probably the friendliest person I ever met, he had a background in fundraising and I'm sure he could have been a rainmaker there. We both wanted to use social media to bring in business and we were thwarted. Another associate was very politically involved and also personable. The last associate was hardworking and has the personality to be successful. These were the law firm's best and brightest, the firm had a backbench of future partner all-stars.

When I left after 2 short years because I didn't bring in the business I expected to, I expected one of the remaining 3 would make partner. I was wrong, they all left. The fundraiser went back into fundraising and doing a heck of a job working for one of the most prestigious civil rights organizations and the politically connected superstar just got a prestigious job in the administration of one of the most powerful politicians in the United States. I guess waiting 8 ½ years to get called up to become partner was too long.

The problem with the firm is that they have a graying population of partners with very little superstars to carry that firm into the next generation. I'm afraid when some of the heavy hitters leave or retire, the farm system of younger partners and associates will be so barren that the firm will die.

Talented people who work for you also are smart. They will know when their work is or is not appreciated and whether there is a future for them. Passover is a wonderful Jewish holiday that celebrates freedom; the job experience of getting passed-over is not.

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