

THE
ROSENBAUM
LAW FIRM P.C.

ADVISORS ADVANTAGE

A Publication for Retirement Plan Professionals

What A Retirement Plan Financial Advisor Needs And Where To Get It.

Stuff you need and where you can find it.

A checklist is an informational aid that is used to reduce failure by compensating for the lack of memory and attention of people. It also helps to ensure consistency and completeness in carrying out a task. I've learned the need for checklist as my memory is stretched with the tasks of being a solo lawyer, father, and husband. A checklist is essential for aviation safety as it's used for pre-flight and for certain safety situation in-flight. For example, during the "Miracle on the Hudson" of US Airways 1549, the co-pilot had to go over three-page emergency procedures checklist in an attempt to restart the engines immediately after the multiple bird strike caused the thrust to be lost. As a financial advisor, you need to identify what you need to run a retirement plan advisory practice. So this article is all about letting the financial advisor know what they need for their practice and where to find it.



To read the article, please click [here](#).

The Long Goodbye.

Dealing with non-paying clients.



I always believe that the retirement plan business is a relationship driven business. It's also a small world of industry where providers know providers nationwide. This belief has certainly helped my law firm practice grow as I've always had an open door policy in fielding questions from financial advisors and third party administrators without nickel and diming them with invoices for services provided.

The problem with any relationship is that it will conclude at one point and knowing when it's over.

When I started my law firm practice 6 years ago, one of my marketing campaigns is when I

advertised my legal services for financial advisors and third party administrators (TPAs) where I would charge a flat fee such as \$500-\$1,000 per month in providing general ERISA legal advice. While I haven't advertised this service as much as I should, I have three financial advisory fees and one TPA that pay that fee.

The first client I ever signed up for that fee was a TPA who eventually thought so much of my work and used my services, that they upped their payment to \$2,000 a month. Through some of the projects I worked with them, they became my biggest client in 2012. The owner of the TPA said we'd be rich with his plans for plan design.

When it came time to restating their defined benefit clients for the EGTTTRA restatements that were that April 30 th, they needed my services and I performed around 40 restatements in less than two weeks time. The \$40,000 I billed was around 2.5 times what I normally billed per month.

Billing \$40,000 that month for that TPA client was amazing and it would have been more amazing if I actually collected that money. You see, the TPA was claiming that because of infighting with key employees that left the firm, they would have a hard time in paying that bill all at once.

I'm not a stubborn man when it comes to business relationships, so I'd let them float as long as they gave me work. Pretty soon after that, they couldn't pay the \$2,000 a month anymore. A reasonable businessperson would have referred the matter to collections, but I wasn't reasonable because I thought that relationship was more important.

When Hurricane Sandy destroyed almost half my home, I was nearly broke. It happens when you have no flood insurance. So I reached out to this TPA and asked whether I'd get paid. I was told I would.

Thanks to the generosity of the Federal Government and whatever savings I had left, we were able to rebuild better than ever. I was chasing that TPA with phone calls and messages on whether there was going to be further work for me. I was promised there would be. But my biggest client in 2011 and 2012 was becoming a client where there were no fees coming in for 2013 and 2014 from them. I should have referred the matter out to collection, but I still felt like the relationship mattered and that there were fees that were going to eventually come my way.

In late 2015, they referred me a client that needed to restate their 401(k) plan. I did the work in July and finalized all the work in January. I still haven't paid in full from their client. So my deadbeat client was referring me more deadbeat clients.

A few weeks back, I texted the owner of the TPA that maybe it was best to go our separate ways and that I refer the matter to collections. He promised to call Washington's Birthday, He always promised to call, he rarely did, Weeks would go by where he would promise to call every other day and months would go by before we ever talked and he never seemed to want to talk about the money he owed me.

I knew he wasn't going to call President's Day and he didn't. I finally referred the matter to collections last week. Once I referred the matter to collections, I felt 1,000 pounds off weight lifted off my shoulder. Of course, I'm beating myself for not seeking the money a few years back, but I thought I was doing the right thing with a business partner. You can bend over backwards for people and there were always be that one or two people who will take advantage of that. The problem is identifying those people and when to end it.

In the end, it's all about teaching a lesson. You do good work, you deserve get paid. Excuses and promises are nice, but they don't pay your expenses. Don't be like me,; pull the plug before 4 years pass by.

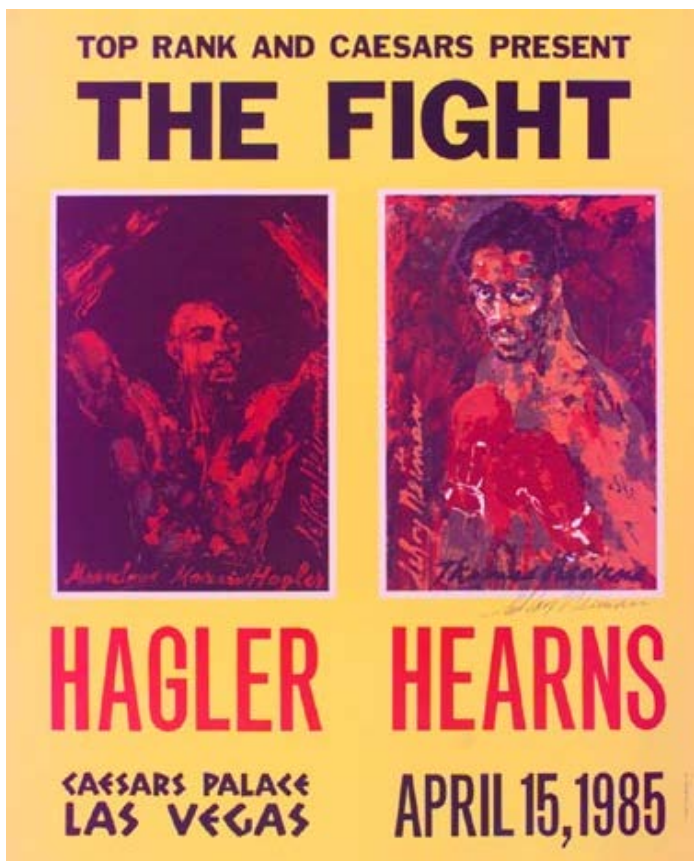
The Fight Against the Fiduciary Rule continues.

The war is still on.

It should come as no surprise that the Senate and the House of Representatives are trying to do their best to make sure that the Department of Labor (DOL) is thwarted with implementing a fiduciary rule for retirement plan and individual retirement accounts.

There is legislation in both houses to require congressional approval of any DOL fiduciary rule change.

Democrats and Republicans don't agree on much, but they do when they are funded with money from investment brokerage houses that want no part of a fiduciary rule that would increase their responsibilities and liability exposure when their brokers won on retirement plans. Add an election year into the equation and you have some exciting times as to whether the DOL will attempt to publish a final rule and whether they have the political capital to stand up against the opposition. There will be a new President in the next 10+ months, so time is of the essence.



The Problem with 403(b) Plans.

Lots of issues there.



I always say that as bad as 401(k) plans may be, 403(b) plans are in much worse shape. It didn't help that the Internal Revenue Service only issued regulations that governed them only 30 years too late, back in 2008. It also doesn't help that still many 403(b) plans (such as those that offer deferral contributions only) and governmental plans aren't subject to the Department of Labor's oversight under ERISA.

While many like the idea of retirement plans not subject to the provisions under ERISA, it's needed. Good retirement plan regulation by the Internal Revenue Service and the Department of Labor have helped the rights of plan participants, as well as lowering plan

expenses.

403(b) plans not subject to ERISA are governmental plans and plans where the non-profit employer has absolutely no fiduciary control of the Plan. From experience, plans not subject to

ERISA are costlier and are poorly run. Heck, up until those regulations, they didn't need to have a written plan document.

One of the biggest problems with non-ERISA 403(b) plans where there are multiple plan providers. For example, a school district may offer 5-6 different plan custodians who maybe an expensive insurance company or a low fee mutual fund company. The problem is that while everyone loves choice, too much choice drives up cost because a plan custodian/ investment provider isn't going to offer the best pricing if they have to compete against other providers in each school district. I know because I worked for a union that wanted to offer its own 403(b) option to plan members, but the low fee plan providers exited stage left when they discovered they had to compete against 5-6 providers in every school district in a state with over 750 school districts. 403(b) plans that are not subject to ERISA are like the old days of the Wild, Wild West because where there are no rules, outlaws run rampant and the outlaws in the 403(b) space are plan providers charging 200 to 300 basis points in an environment that allows it.

My two cents is that 403(b) plan would be in better shape if they were all subject to ERISA and Department of Labor (DOL) oversight. I won't be surprised if the DOL will try to regulate this characters from the Wild, Wild, West.

It's about relationships and patience: A Success Story.

Something worth waiting for.



I always talk about my open door policy with financial advisors and third party advisors where I will help these plan providers out without me actively seeking their business. I kind of have that liberty because it's my own law practice and I don't have the stress to bill when everything at the end of the month is mine anyway.

The reason that I take the phone calls and respond to the e-mails is the belief that the retirement plan business is a relationship driven business and I learned that by a friend

of mine named Richard Laurita (may he rest in peace). He was the salesman at two TPAs I worked with. Rich was all about developing relationships in this business. I once joked that he probably couldn't spell 401(k), but he didn't need to because the relationships he developed over time brought him and his employers business. I follow the same approach and quite honestly, most of the plan providers I have talked to over the past 6 years never brought me business and that's fine because some day they might. The help I give in these types of conversations are free and I can probably say on one or two fingers how many plan providers abused that free help. I believe that if you help people, they will remember you.

So here is the part where I talk about one of my success stories. There was a registered investment advisor with absolutely no retirement plan clients and he wanted in this business. For over two years, we spoke on the phone and met where he introduced me to people and I introduced him to people, but no business for me. I'm a patient man, that's what happens when you go to school for 22 years straight. Over time, he took my advice on how he can partner with other advisors and he attended conferences that I suggested he attend.

Well that registered investment advisor who was honest that he didn't know much about that retirement plan business and wanted to seek help from those that could, including yours truly, has netted a few retirement plan clients and is now an ERISA §3(38) fiduciary (hiring me to develop his service agreement at a flat fee).

This story isn't about me. To me, it's about how plan providers can get ahead just by being honest on what they don't know and developing the relationships with those that do.

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