

401(k) Plan Providers' Behavior To Avoid That Loses Clients

By Ary Rosenbaum, Esq.

Over the past 18 years as an ERISA attorney, I have some pretty weird reasons why retirement plan providers get fired. I'll never get the financial advisor who was fired because the client's new Chief Executive Officer wanted to hire a new advisor that he get a kickback from.

I remember working at a third party administration (TPA) firm where we got fired because the previous TPA did more of the Human Resource Director's work and she resented that. While these crazy stories will last the rest of my career, most plan providers are fired because of legitimate reasons including the behavior of the plan provider in dealing with this now former client. So this article is about what types of behavior that a plan provider should avoid exhibiting if they want to keep their clients.

A lack of communication

Every personal or business relationship that ever mattered to me that ended on a sour note usually dealt with a lack of communication by myself and the other party. My biggest business relationship that ever fal-

tered was with a boss that I had some respect for and it soured because I couldn't tell him about the problems I had with his meddlesome partner. Maybe if I told my boss my issues, he might have ignored me. The problem is that I never gave him the chance. A lack of communication between a plan provider and their client can

take many forms. It could be not telling the client about any problems that are going on with the plan or not telling them about certain law changes that may affect the plan or by just not bothering to return the phone call. I always talk about the TPA client who fired that well known payroll

as the client's plan provider. Being a retirement plan provider isn't about the work, it's about the relationship with the client. Ignore the client and they will walk away.

Not admitting when they make a mistake

Mistakes happen and even the best retirement plan provider will make a mistake. I think what separates a good plan provider from one not so good is how they handle errors they cause. The good plan provider will admit their error and correct it on their own dime. The not so good provider will either pretend the error doesn't exist or make some crazy excuse why the error was made which may include blaming the client. I worked for a TPA where the previous ERISA attorney made a serious and avoidable error in determining whether a series of companies was part of a control group. The attorney claimed they weren't and a basic review of the ownership of the companies would have shown it was clearly wrong. Instead of admitting the serious error, the head of administration wanted to



provider TPA with the initials because they never bothered to tell the client about the benefits of a safe harbor 401(k) plan design for a plan that failed their discrimination tests by a wide margin. Not communicating with clients on any issues or changes in the law or just to say hello could lead to a competing provider getting your seat

claim that the previous analysis was only wrong because the law changed. There was no law change, just an attorney who made a mistake. I have a law firm client where the TPA mangled the top heavy test because they forgot to treat the daughter and wife of one of the law partners as a key employee. Years later, the plan sponsor discovered

they had to make the top heavy minimum contribution and all the plan provided did as an excuse was blame the plan sponsor for the error. Clients can deal with an error from a plan sponsor, what they can't deal with is a plan provider who will stop at all costs to avoid from either disclosing the error and/or admitting they were wrong. I've know plan sponsor that would accepted the mistake, but fired the plan provider just because the provider wasn't honest enough to admit the error. We all mistakes, how we deal with them and learn from them is what sets us apart from each other.

A lack of empathy

Empathy is something that most people don't have, but a good retirement plan will have. Empathy is the ability to understand and share the feelings of another. Being a retirement plan provider is all about relationships, with the client and with the client's other plan providers. If a plan provider understands how a client feels or will feel based on what is going on with the plan and/or the services provided by the plan provider, it's going to go a long way to make that client a happy and long-term one. Things don't happen in a vacuum, anything that a plan provider has done or will do will certainly have an effect on the client and empathy is all about trying to understand how it affects the client. Increasing fees, changing the plan provider's staffing, making mistakes, and a lack of communication are just some of the actions a plan provider may make. It's incumbent on the plan provider to understand how any change or prospective change will make the client feel. I've seen a TPA lose clients and relationships with advisor by the bushel just because they didn't understand the role of the salesperson in the role of the relationships. So when this salesperson left, he took clients and relationships with him. A plan provider can't just sit around and figure it how any decision they make will affect themselves, they have to think what their clients may think.

Being inflexible

Inflexibility is not about being asked to do something that contravenes the rules of retirement plans and saying no. Being inflexible is being closed to suggestions or being stubborn about the way you do business.



Perfect example is this TPA I know that does an excellent job at a premium price. The inflexibility isn't about pricing, it's about how they handle 401(k) plans. They only want to work with registered investment advisors and they only want to use on particular 401(k) custodian/platform. Good unbundled TPAs with a daily system is going to use a handful of custodian/platforms because they want to be flexible with the financial advisor because the advisor may have a preference. Since this TPA just like this particular custodian/platform, that could be a problem for the advisor who doesn't. The advisor may have an attachment to another custodian, so this TPA may lose out of that relationships just because they seem to be wedded to this particular custodian. Another inflexible part of this TPA is that they don't work with brokers, they only work with registered investment advisors (RIAs). That's a problem when the bulk of advisors out there are brokers, so this TPA is basically saying they don't want to work with the majority of financial advisors out there who can be excellent referral sources. One business owner I've always admired is WWE Chief Executive Officer Vince McMahon because he had the mantra of giving people what they want (if you see how his daughter and son-in-law book their shows these days, you'd think he never said that). It's a very competitive environment out there in the retirement plan industry, so a plan sponsor needs to have some flexibility in a market that's always changing,

Knowing it all, being arrogant

My daughter has been going to the same summer camp for 6 years and I've promoted and recommended this camp up until this past summer. This past summer, I've noticed that the media team they hired who have children as camper at this camp were busy most of the time taking pictures of their own children to the detriment of hundreds of other campers. So I complained a number of times to the camp owner's daughter in charge of social media to no avail or resolution. So her father, who's very full of himself wanted to talk to me. Having dealt with him in the past, he likes to belittle people because he's arrogant, so I told his daughter that I refused to meet him because I can't deal with people who are always right. I was being sarcastic because no one knows everything.

Arrogant people think they do and that's detrimental. Being arrogant is about always thinking you're right and just being deaf to the needs of the clients. Narcissism and arrogance are awful traits to have as a plan provider and they can be detrimental to business. The history of the retirement plan business is littered by plan providers who failed because they were too arrogant and deaf to the changes around them. There is no point in being arrogant when the business is so competitive and you could lose a client so quickly. A plan provider is making abig mistake if they think they are infallible and they are G-d's gift to 401(k) plans.

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