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THE ROSENBAUM LAW FIRM P.C.

ADVISORS ADVANTAGE
A Publication for Retirement Plan Professionals

For Retirement Plan Providers, It's All About Making A Connection.

That's all it is.

A few years back, I would hear "Let it Go" from the movie Frozen every 5-7 minutes. It was a great song from a great movie, but it was a little unnerving to hear it 7-10 times on a short car trip. Then it stopped, my children and the nation moved on. When it comes to being a plan provider, there are certain things that you need to let go because otherwise, it may get in the way of getting business.

To read the article, please click here.

DOL Comment Period Extended.

They will talk about it for a little longer time.

In an announcement that did not surprise me, The Department of Labor (DOL) has announced a brief extension of the comment period on its proposed fiduciary rule and set a date for a public hearing.

The comment period for what the DOL has been extended by 15 days - from 75 to 90 days - which the DOL said means that the opportunity for public comments on this proposal may be over 140 days.

The dates of the public hearings will take place during the week of Aug. 10, 2015.

The comment period was extended because of the seismic shift that this proposal would have in the retirement plan and brokerage areas.

Supreme Trouble with Tibbles.

It's a huge and monumental case.

While the Supreme Court ruled in the monumental 401(k) case Tibble v. Edison that mostly dealt with statute of limitations issues, one could read something into it a little more.

Tibble was the case where the District Court held that a plan sponsor violated its duty of prudence as a plan fiduciary by not monitoring the plan's investments. While the Court held that a plan's selection of investments and failing to monitor is a continuing breach, what they said as part of their ruling should make any plan provider or plan sponsor to take pause:

"In short, under trust law, a fiduciary normally has a continuing duty of some kind to monitor investments and remove imprudent ones. A plaintiff may allege that a fiduciary breached the duty of prudence by failing to properly monitor investments and remove imprudent ones. In such a case, so long as the alleged breach of the continuing duty occurred within six years of suit, the claim is timely."

My referrals aren't for sale and neither should yours.

Your word and reputation should mean everything.

My word is my bond; at least I try to make it that way. My opinions on which providers are good for plan sponsors aren't for sale and neither should yours.

When I get asked for referrals, I always try to point out at least three competing providers to plan sponsors because I don't want any suggestions that I'm just pushing one because it could benefit me and I want the plan sponsor to pick a provider they are most comfortable with.

I just received a call from an irate plan sponsor who felt swindled by a broker for their retirement plan. The broker was referred by the third party administrator who was referred by their attorney. The attorney won't return calls, there maybe a reason or two why.

Thanks to the popularity of my articles and blog, I get a lot of requests to meet with financial advisors and third party administrators. Of late, I have not done a good enough job in meeting them. I think some of it is my schedule and some of it is remembering how many other plan

providers I met and how little business came from it.

Regardless, I have heard of some brokers offering some sort of referral program. I have to clearly state that I have never been directly or indirectly paid for making a referral and I never will. My opinions on who is a good plan provider are my own and it's not for sale. I sure could use the money, but there are more things important than money: my reputation and that's not for sale.

Sorry, Lois or how I started my law firm from nothing

5 years in the making.

I always talk about my frustrating experience at a certain semi-prestigious Long Island law firm (sorry, Lois). I do it partly to rub my success in their noses because they never had faith in me, but mostly because the way I market myself now is the way I wanted to market myself back there. I could have been a star there, I could have been a contender, I could have been somebody, instead of the bum associate attorney I became.

When I was there, I wanted to use Twitter, I wanted to use Facebook, and I wanted to constantly post articles and blog messages. The bureaucracy of the law firm wouldn't allow it. Social media was accused of the advertising committee of one of being barred by the legal advertising rules and I had a six-month wait on the publication of my articles because 3 partners had to approve my article before publication and the marketing department was bogged down in producing articles written by the law firm administrator that served no purpose other than his own. Since I made comments about this abuse of resources, this law firm administrator's article output was whittled to nothing before he jumped ship.

My message was to offer an ERISA practice that would be available for the small to medium sized plans that thought they couldn't afford an ERISA attorney with fees on par with what the legal department at a TPA would charge, with the added benefit of an attorney-client relationship. My articles were going to try to help plan providers recruit and maintain clients, which would open a dialogue with these providers with the hopes I'd get clients through referrals by these providers. Since plan sponsors and plan providers were wary of the never ending possibility of being billed to death by the billable hour, I was going to charge a flat fee.

One of the ideas I had was that I was going to make a run at the clients of the old TPA I worked at. When I left that TPA, I was replaced by two attorneys and a paralegal (perhaps why a few TPAs have outsourced their legal department to my practice, cost effective is my middle name). So when my old TPA was charging $600 for the Section 415 amendment back in 2010, I was going to charge $300. Only problem is that the advertising committee wouldn't let me say $300. For some reason, I had to say I'd do it in a cost effective manner. After contacting 750 of my old clients, I think I got 1 through this approach. 7 years later, I still think what would have happened had I been able to use $300 in the solicitation letter.

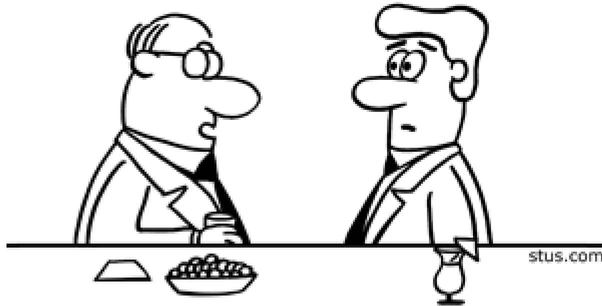
So enough of my life story, It's in my book. As any plan provider you need to find a message as to why anyone would hire you. Saying you're cheaper or how the other provider isn't going to cut it. If you are a financial advisor, the message is about offering a value, how your services will help a plan sponsor's retirement plan, minimize their liability, and improve the retirement outlook of the plan's participants. If you are a TPA, it's how you facilitate the plan's administration,

eliminate the potential pitfalls of plan sponsor's fiduciary liability, and plan design that can help a plan sponsor maximize contributions to certain employees while making the required minimum contributions to the rank and file.

Like ERISA attorneys, plan providers are a dime a dozen. You need to stand out among the crowd and it's all about identifying a message that can help explain your services to potential clients and why you should be hired among the crowd. Hopefully, you'll have better luck in getting your message out that I did those years ago at that law firm.

Dealing with a probable fiduciary rule.

It's going to happen, eventually.



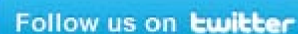
This "fiduciary" thingy really complicates pillaging a corporation.

I recently spoke to some higher ups at a major brokerage firm concerning the proposed Department of Labor fiduciary rule.

Surprisingly, we were on the same page. Most of them were in favor of some sort of fiduciary rule that would put retirement plan advisors on some fiduciary setting. We also had concerns on how the fiduciary rule would apply to individual retirement accounts (IRA) because unlike retirement plans, there maybe less of a market from advisors to choose for the retiree that had less than $100,000 in IRA assets.

They were preparing to prepare for some sort of fiduciary rule, they think it's inevitable. I agree. Whether you are a broker or a registered investment advisor, you have to get ready for some sort of fiduciary rule. Nothing is set to stone, but after the last debacle of trying to introduce a fiduciary rule, I'm convinced something will finally be implemented. I don't expect the rule to be the same as the one proposed because I think there is enough congressional pressure that will be applied to get some concessions.

While a broker maybe concerned with the changes, but I think this fiduciary rule change is an opportunity for everyone including brokers because someone else's problem can be your opportunity.



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