

Curb These Bad 401(k) Plan Provider Behaviors

By Ary Rosenbaum, Esq.

With my laundry list of favorite television shows, I think *Curb Your Enthusiasm* has edged *Seinfeld* as my second favorite show of all time (Dallas is still #1). Perhaps it's sacrilege to have Larry top Jerry (even if he was the co-creator of both shows), but I like Larry's character and the complaints about the smallest little things. As I get older, I feel more like the fictional Larry David (played by the real Larry David) in the things that annoy him without Larry's hypocritical nature that lands him in trouble. As a retirement plan provider, certain things annoy me about other plan providers and these are some behaviors you might want to curb as a plan provider.

Selling through networking

When I first started being on LinkedIn back in the day, I was told by the law firm partner who didn't draw any business that being on LinkedIn was advertising. Since he never drew a dime of business, he had no idea how networking works. Some of my best relationships in the retirement plan business started with a connection on LinkedIn. As an ERISA attorney, I never tried to sell directly to the people I connected with. If they ever needed an ERISA attorney, I'd hope they would consider me and that is why I have drafted hundreds of articles for plan providers to disseminate for free to the current and future clients. So while I try to not sell directly, not everyone feels the same way. I tell you there is nothing more annoying than getting a LinkedIn request from a financial advisor who doesn't want to connect to learn

more about the 401(k) business but wants to sell me financial advice. Listen, genius, I handle my own money and if I ever need financial advisory help, am I going to use an advisor I've known for years or some guy or gal who just connected with me, through LinkedIn? I have so much PTSD in dealing with LinkedIn connections, that I automatically reject any invitation from people who work at website builders, law firm marketing companies, and search en-

den by planting seeds and watching things grow. Trying for a quick sale rarely works.

Being a schnorrer

What is a schnorrer? It's probably my favorite word in Yiddish. While it means beggar or sponger, it's just my word for cheapskate. One thing I never do is haggle over price. If a third-party administrator (TPA) tells my client what the price is for annual administration, I don't try to haggle to save a couple of hundred bucks. The price is the price. I try to treat other providers the way I want to be treated, so I never try to haggle or chisel on price. That is how I deal with plan providers for my clients and my 401(k) plans, as well as everyday life. If Jimmy, who frames my autographed photos says the price for an 8x10 is \$60, I'm fine and not going to haggle. A perfect example is when I run my events. I charge a nominal \$100 fee to attendees and the whole point of the fee isn't to make money but to guarantee attendance. There is a no refund policy. I have been to many advisor events including some that I would sponsor that were



engine optimization companies. It will be a shame if I find out these were actual plan sponsors with ERISA issues, but I'm not betting on that. Regardless of what kind of plan provider you are, the whole point of networking is making connections. People will know what you do, based on what you post, and any good relationship takes trust and time. People aren't going to hire you 5 minutes after you connect through LinkedIn. Networking and building relationships are like developing a gar-

free to attend, and there would be a cancellation rate on the day of, up to 50% because these advisors found something better to do than show up for a free event. A few years back, I was running That 401(k) Conference, I think it was probably Miami. A new advisor reached out to me and asked. If he and his assistant attend. When it comes to multiple people from the same firm, I only charge \$50 a head to drive a larger attendance. So a day or so before the event and after I was charged by the Miami Marlins

for the food, the advisor cancelled. He then was asking me about a possible refund even though I don't give refunds. Rather than accept that, he kept on hounding me for the \$100, and rather than fight over \$100, I refunded him that because dealing with him wasn't worth the \$100 and I don't think this is an advisor I want to get referrals from anyway, his clients will probably try to chisel me on my \$350 flat fee for a plan amendment.

Speaking badly of other providers and people

I worked at a TPA as the head ERISA attorney for almost 5 years. I think by year one, I was probably plotting my exit. A few years later, I went to a competing TPA on Long Island to interview for their head attorney position. This was a really good TPA that had run off some good people because a recordkeeping software company bought them. My TPA got a top salesman and the best actuary I've ever known or worked for. So I'm interviewing for the job with a gentleman who was sent in by this recordkeeping software company to run the day-to-day business of this TPA they purchased. So within 5 minutes, this gentleman showed he was no gentleman because he immediately started insulting my new salesman, whom I never had issues with. There was a producer who replaced Lorne Michaels as executive producer of Saturday Night Live in 1980 named Jean Doumanian. She lasted about 12 episodes before she was fired and the next episode, Al Franken did a bit where he didn't want to be seen as being crude to Jean because it would make him look bad. Listen, I've said some bad things about my old law firm and their managing attorney. I don't regret saying them, I just regret some of you may think negatively of me because of my criticism of them and that my predictions of their eventual demise are becoming truth. When dealing with competitors or even providers you're suing (I once sued a TPA for stiffing me with a large legal bill), it's best not to speak badly about other providers, just because it makes you look bad.

The email I can't unsubscribe from

One of my marketing plans since day one was the two newsletters I email advisors and plan sponsors about what is going on in



the retirement plan business. Every email I send, there is less than 1% of my subscribers who no longer want to get my emails. Constant Contact, like any reputable email company, has an easy unsubscribe button. If people want to unsubscribe, there are no hard feelings. There are hard feelings for the one subscriber who unsubscribed, wants to resubscribe, is too lazy to resubscribe, and bothers me about it. But that's another story for another day. I have seen a lot of people now send me emails without any opt-out/safe unsubscribe button. Honestly, the providers who send emails and say that if you no longer want an email, respond; I won't give them the satisfaction of a response. Let them send me emails until the end of time with follow-ups, and I will just delete them. We no longer draft people into our armed forces, so don't draft people into receiving emails that they can't unsubscribe to.

It's business, not personal

If you're a plan provider, you are hired to be fired. What that means to me, is that any plan sponsor relationship will end at a certain point. Whatever the reason is, your time as a plan provider will be over. So I'm unimpressed with plan providers who take things personally, like the guy who tried to slap my plan for \$80,000 to do valuations and Form 5500 that he was already paid for. I know a good TPA who just sold his business and he told me of the many times that plan sponsors fired him, hired a payroll provider TPA to replace him, and came back to him to do the TPA work when things didn't work out. Had he acted like a jerk to these former clients, they wouldn't become future clients. Getting fired isn't fun, but it's no reason to act like it's

some sort of personal attack.

Wasting a plan provider's time and wanting them to work for free

As you may be aware, I have an open-door policy for questions and requests via phone or email. I never wanted to be the ERISA attorney who was nickel and diming plan providers every time I had to pick up the phone. I'm a very patient man, spending 22 years straight in school will do that to you. So there will be advisors over the years, who will ask questions and refer no business, ever. That's fine by me because there are certainly plan providers who refer more work than others, and they may ask fewer questions. That being said, I think over the past 14 years as a solo practitioner, I probably count on less than one hand of providers who I think wasted my time. Those plan providers weren't about asking too many questions, these providers got free work from me with the promise that the free work will lead to billable work. Never ask a plan provider for free work and if you're asked, never provide free work. If people want you to work for free, they have no value for your time or work. I'm stubborn and when a family member asked me to do a free tax return for their significant other, I said no. My time and your time have value, and so does the time of other plan providers.

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