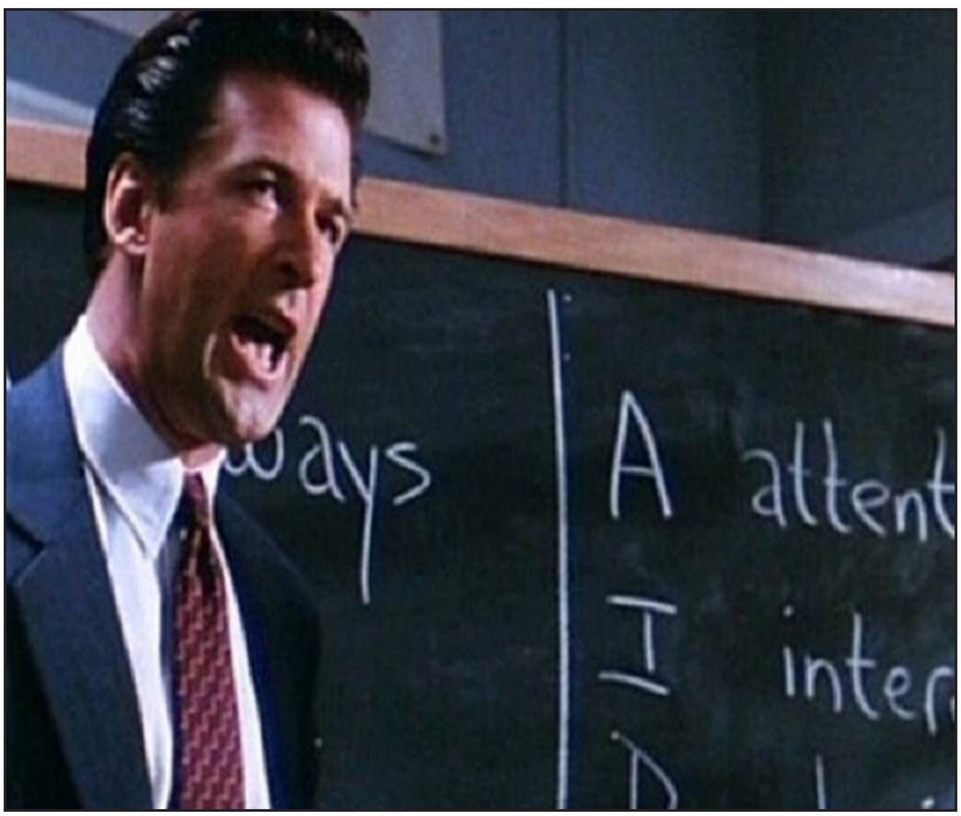
# How Financial Advisors Can Prepare For Those 401(k) Potential Client Meetings

## By Ary Rosenbaum, Esq.

I'm a big fan of Glengarry Glen Ross, the 1992 movie, based on the David Mamet play. One of the most memorable scenes is when Alec Baldwin makes a cameo as a master salesman from the main office, to cajole the other salesman in this sales office. Alec's character is named Blake, if you didn't know, and it was specifically created for Alec Baldwin, so it's not in the play. Blake's tactics are to scare the other salesman into thinking their jobs were on the line. Blake insults Jack Lemmon's Shelley Levine that he's not much of a salesman because "coffee is for closers." Blake also suggests they should "Always Be Closing." While meeting potential plan sponsor clients as an advisor, you can't always be closing because you getting hired is fully dependent on the potential client. This article is about arranging a meeting with potential clients and what you need to do.




**Always be prepared**

You can't always close, but you always need to be prepared when meeting with potential clients. You can't go in there cold because every potential client is different with different issues and different needs. When are you prospecting a potential retirement plan client, it's always great to prepare before the meeting because the right questions to this prospect and their answers may get you a leg up against your competition. I recently had my backyard patio done and the mason I hired was more prepared than a competitor and he came up with ideas, solutions, and an estimate that was way cheaper than the competition.

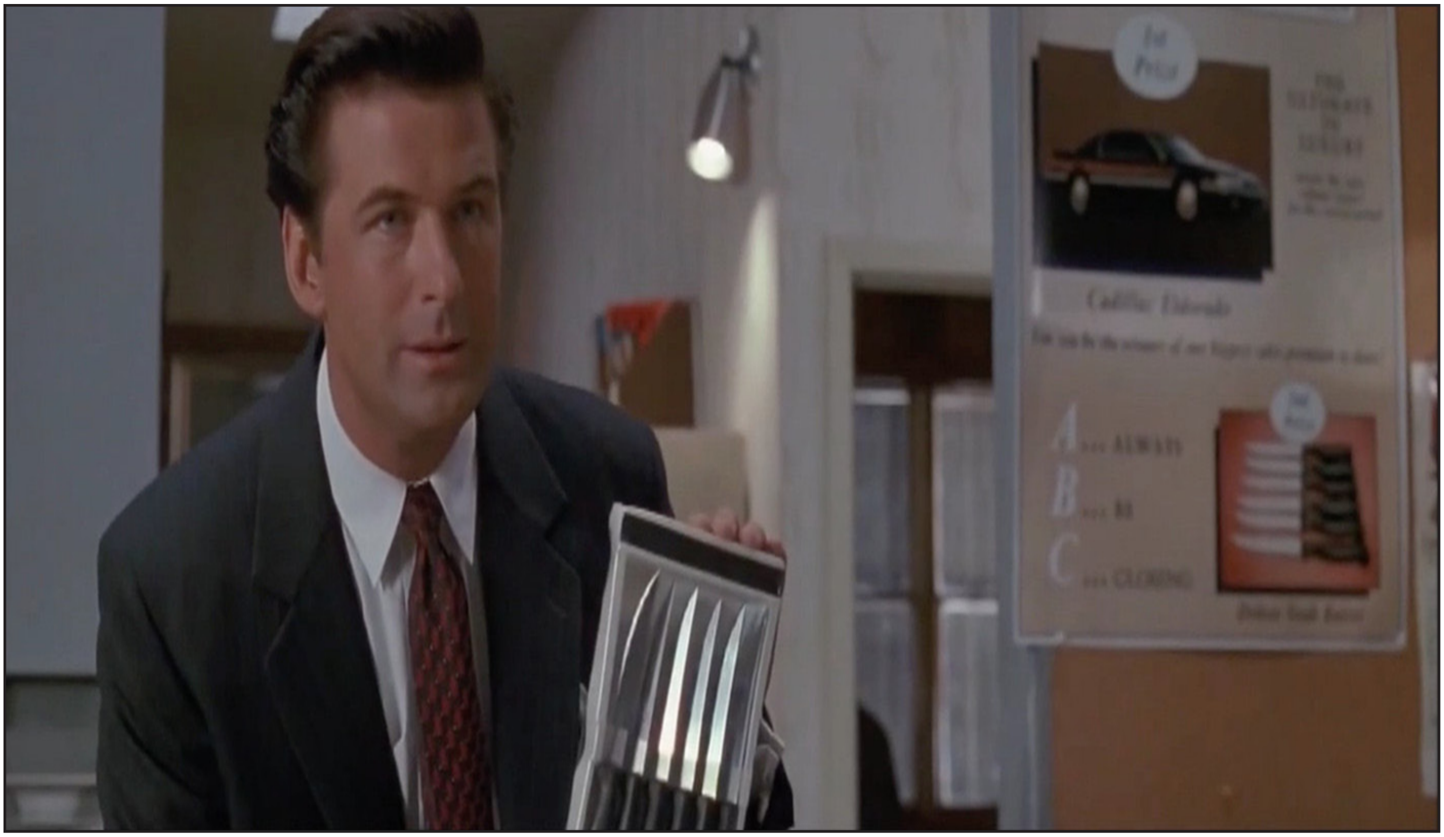
Here are a few basic things to look for in preparation and questions to ask the plan sponsor:

1. Always print out a copy of the Plan's latest Forms 5500 from the Department of Labor's EFast website. Besides the fact it's free, I often find that Form 5500 may have glaring errors or listing of excessive administration and brokerage fees printed right there. I will never forget finding out that a potential client of mine, once paid one of those top accounting firms $54,000 for a limited-scope audit. Some other issues to look at, include late deferral deposits and issues regarding ERISA bond coverage. Thanks to the required online filing of Form 5500, the information is essentially hot off the press, as opposed to the stale reports on those other data websites.

2. With Form 5500 and information culled from EFast, determine who are the Plan's Third Party Administrator (TPA) and custodian. I always think one of the biggest mistakes that any new advisor makes is that they push their new client to change TPAs even if the new plan sponsor client likes their TPA. There is no point in rocking the boat and knocking on a TPA that the potential client likes, could be a dealbreaker. You will need to identify all the plan providers and see how they fit with the client.

3. Use a benchmark service to properly gauge the plan against its peers. You could also use the 401(k) Averages Book which could give you an idea of how much the plan is overpaying. Thanks to fee disclosure regulations in 2012, the plan sponsor could give you their fee disclosure statement from plan providers. Since you are meeting with this potential client, make sure to ask for it.

4. Ask the potential client whether they have an investment policy statement (IPS). The Department of Labor has been asking for these lately in plan audits and the lack of an IPS could subject them to liability even



despite the intention to comply with ERISA Secon 404(c). Many retirement plans still don't have an IPS, which is amazing.

5. Ask the potential client whether their current advisor reviews the plan investments with them and determine whether it adhered to the current IPS (if they have one). Ask whether this review has been memorialized in writing. While a review is great, written minutes determining the Trustee's decision to maintain or jettison investment choices is added protection. When it comes to liability protection, it's all about the plan sponsor having a prudent fiduciary process and following it. Anything outside of that is problematic.

6. Again, through the answer on Form 5500, find out from the potential client whether they have an ERISA bond. If they do, make sure the coverage fits within ERISA's requirements. Many plans may not have increased coverage as assets have increased. Despite the confusion on this topic over the years, an ERISA bond is required if the plan covers at least one non-owner employee.

7. Ask the potential client whether they have fiduciary liability insurance. While it's not required yet, it should be recommended. Your business as an advisor is to help a plan sponsor minimize liability, what better way than a fiduciary liability insurance policy?

8. Ask the potential client whether they have any Plan administration issues, namely failed discrimination testing. Often, many TPAs don't offer the solutions available to correct this like a safe harbor plan design, especially the administration firms who are payroll providers. Ask the plan sponsor whether they have opportunities to fund a new comparability allocation that can give greater contributions to highly compensated employees. Ask whether they could afford to add another plan, such as a defined benefit/cash balance plan. Companies grow and the current plan may no longer fit their needs.

9. Ask the potential client for all education materials given to plan participants and whether education meetings are held. For participant-directed ERISA 404 (c) plans, liability is limited based on the amount of education that a participant gets. To gain that liability protection, the plan sponsors need to provide enough information to participants, so that they can make informed investment decisions. Just giving the participant a salary deferral election form and Morningstar profiles isn't enough.

10. Get the current mutual fund lineup. With so many funds, it's an alphabet soup of share classes. The potential client may have the wrong shares classes for a plan of their size while their current advisor and TPA financially benefit from it because it might pay revenue sharing. A lot of times, a cheaper share class may be available and the current advisor may not be aware. If you're prospecting a really large plan, improper share classes are one of the easiest ways for a plan sponsor to be sued. Another glaring problem is when plan sponsors have way too many proprietary funds of their TPA and/or plan custodian.

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