Facts that Some Retirement Plan Providers Hide From Their Clients

By Ary Rosenbaum, Esq.

Since I was 5 years old and saw the original Star Wars in the movie theaters where smoking was allowed in the last 3 rows. The original trilogy is still the best and one of my favorite scenes is the Mos Eisley Cantina where Luke Skywalker and Obi Wan Kenobi meet Han Solo and Chewbacca for the first time in their bid to rescue Princess Leia. Before reaching the Cantina, Obi-Wan warned Luke that in Mos Eisley: "You will never find a more wretched hive of scum and villainy." Perhaps Obi-Wan would say that about the minority of retirement plan providers who are a wretched hive of scum and villainy by hiding some key facts from the plan sponsors they service. This article is about some key facts that many plan providers hide from their retirement plan sponsor clients like you.

Client Retention Rate

The contractors I use have a sterling reputation from the Better Business Bureau (BBB) and have the logo on their shirt-sleeves. When it comes to any business that has client complaints from the BBB, they don't really draw attention to that. Plan providers that rarely lose clients will tout their long-standing relationships with the plans they serve and providers with poor client retention rates (which I always call a "churn" rate) will never mention that rate. Many plan providers such as payroll companies that serve as third party administrators (TPAs) have such terrible churn rates, that their client development is more like a revolving door; they lose as many clients as they gain. So in selecting a new provider or a current plan provider, it's a good idea to understand what their client retention rate actually is. A higher retention rate infers a high level of service.

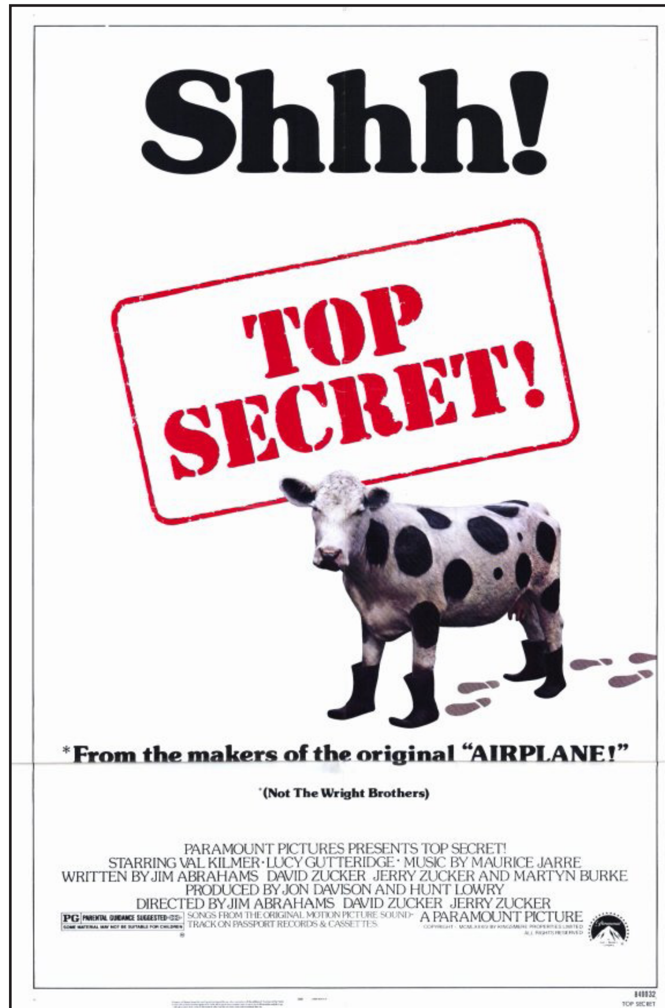
Termination Fees

Fee disclosure is one of the most important developments in the retirement plan industry in the past 20 years. One of the fees that is never mentioned much out there are termination fees, fees that plan providers may be entitled to for working with clients in the transition after that provider has been terminated. While most plan providers are very explicit in their agreements on the methods and fees in connection with termination of services, there are a few out there that are awfully silent on what the cost will be for a plan sponsor interested in changing providers, Termination costs are an acceptable method of plan expenses because it does cost a plan provider money and time to de-convert a plan off their system, but they need to be fully disclosed in any agreement with their clients. I worked for a TPA that never made disclosures about termination costs to their clients and the fees were set at the whim of the Chief Operating Officer when he wasn't busy looking through my mail or losing $5 to save a dollar. The fees were dependent on a variety of factors including plan size and who the financial advisor was on the Plan (as well as Manny's mood), so there was no definite rhyme or reason. Make sure that any provider you are reviewing or considering is upfront and explicit about termination costs and what they actually are.

Surrender charges, market value adjustments, etc.

The major problem with using any type of insurance based product within your 401(k) plan is not only cost, but any surrender charges or market value adjustments that come along with it if you decide to terminate the contract with the insurance provider offering the product under the plan. I have seen too many plan sponsors get an unexpected bill when they decide to change plan providers. Many insurance companies offering 401(k) financial services do have surrender charges for any terminations of service before the end of the contract, which is usually after 5-6 years. I have also seen too many plan sponsors suffer

losses when trying to terminate the stable value fund offered under the Plan when there is a market value adjustment because of issues with the current interest rate. While most insurance company providers are very upfront of their contractual terms and surrender charges/market, there are some providers who would rather hide the ball and have you get the sticker shock later down the line when you decide to terminate their services. As a plan fiduciary, you have a duty to pay reasonable expenses and the only way to do that is to understand these fees, so it's paramount you know any potential fees you may have to outlay if you decided to terminate an insurance or annuity contract.



Experience of their staff

There are quite a few retirement plan providers out there with a well experienced, well educated staff that can help you with your retirement plan's needs. Then there are those providers who have inexperienced professionals working for them that are incompetent, inexperienced, or never received any proper form of training. Having been an ERISA attorney for 14 years now working for and with TPAs, I have seen plan administrators and financial advisors with all levels of experience and competence. As a plan sponsor, it's imperative to know what types of professionals work for your provider and whether they have the proper experience or credentials to handle your plan. A plan provider that doesn't disclose that information during the client recruitment or retention process should be asked because nothing is worse that a rude surprise when your plan is mishandled.

Reputation in the Industry

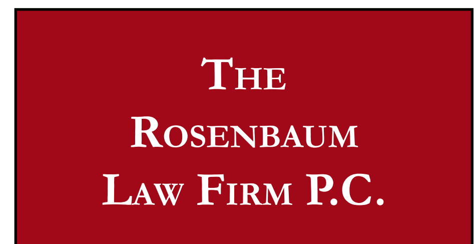
So many plan providers like to announce their placement in any important rankings of retirement plan providers. Clearly a TPA or financial advisor, which has recognized great customer service, will like to tout that in their materials. Thanks to the Internet and publications, there are enough awards in the retirement plan business to go around. While many retirement plan providers have excellent reputations out there, there are a few that don't. That's why it's a good bet to check on the Internet and investigate your current or prospective plan providers. If you see an investment advisor touting his fiduciary services and his experience as a TPA owner/ ERISA attorney, a simple search on Google may yield some unsavory and unanswered allegations in his role as a TPA leader/ fake auditing firm owner (sorry, Shel). You can't take your plan provider's word that they are ethical and competent, you need to do some investigation on Google to make sure that their claims are truthful.

Less Expensive Share Classes

Mutual funds have many different share classes and it's possible for one mutual fund to have at least a half dozen different share classes with different expense ratios. Some share classes may be considered a retail class, while some institutional share classes (less expensive) are geared towards retirement plans. The problem is that based on the financial advisor and/or TPA you may be using, you may be entitled to a less expensive share class of the very same mutual fund in your plan. The problem? Plan sponsors have been held in recent court cases to have violated their duty of prudence if their plan had retail share classes when less expensive share classes of they very same fund were available. It's important that you have the plan providers who have the background to determine whether less expensive share classes of the investment options are available when your plan hits a critical mass.

Their Financial Footing

Most businesses aren't in the business of disclosing their financial standing to prospective clients, but the retirement plan industry is no ordinary business. As a plan sponsor, you are a plan fiduciary and you are responsible for the work of these plan providers. So it's necessary to make sure that the plan providers you work with or are evaluating are on solid financial footing as well as whether they are properly insured. A properly financed and insured plan provider is more likely to shoulder any claims you may have against them for any potential negligence on their part than a fly by night operation which doesn't have an errors & omissions policy. Most plan providers will disclose their financial and insurance stings when asked, but there will be some that won't. At the very least, make sure all your plan providers have the proper insurance.



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