THE ROSENBAUM LAW FIRM P.C.

ADVISORS ADVANTAGE
A Publication for Retirement Plan Professionals

A Plan Advisor Should Be Careful About Their TPA Referrals.

They need to.

There was a time when a 401(k) financial advisor could get 75 to 100 basis point working on a plan, those were the days of wine and roses. Now an advisor charging 25 basis points on a large plan is considered expensive. These are the pitfalls of a transparent marketplace focusing on increased fiduciary oversight and narrowing margins. This article is all about giving ideas to advisors on how they can better market themselves in an increasingly more competitive marketplace.Most financial advisors do a great job in stressing the needs to minimize a plan sponsor's fiduciary liability, yet it's still so amazing how so many pay so little attention to the third party administrator (TPA) they're referring their client to. One of the reasons they pay little attention to because they really don't understand that the TPA can be the major difference between a plan staying in compliance without huge penalties and not. Advisors also don't realize that referring a bad TPA can go a long way in getting the advisor fired. So this article is about how advisors should be concerned with the TPAs they hire.

To read the article, please click here.

The New Fiduciary Rule is Dead, Jim.

But it will come back one day, I guarantee it.

In a move that should shock no one, the Department of Labor (DOL) pretty much left the fiduciary rule to die by rolling over and effectively letting the rule die. The last deadline for resuscitating the fiduciary rule passed when the DOL's declined to ask the U.S. Supreme court to reconsider the appeals court's decision in the 5th Circuit that knocked out the rule.

This should come as shock to no one since it was pretty much the goal of the Trump administration to find anyway to scrap the rule.

Before brokers go around the country, being happy about the end of the rule. I ask them one question: you won, but at what cost? The brokerage industry spent billions in legal fees to comply with the rule and some broker-dealers decided to go the full fiduciary route whether the rule was going into effect or not. I worked with an insurance company who were complying with the rule and they sent out letters to many clients, especially on the smaller SEP-IRA plans, effectively firing them as a client. As much as the brokerage industry would like to turn back the lock to the days before the rue went into effect, they can't. I also think they can't because many plan sponsors want an advisor who can act in a fiduciary capacity and I also believe that once a different administration goes into effect, a more restrictive fiduciary rule will come into effect. That's why I believe the latest fiduciary rule would have been better for 401(k) brokers than anything that comes down the path later.

Pick up the phone

Otherwise, you're throwing away money.

I always say one of the main reasons that a provider gets fired is when the plan sponsor feels that the provider doesn't care and one of the main reasons is when the plan sponsor can't get their phone call returned.

I worked at a third party administrator (TPA) that often reminded me of an insane asylum, but one of the great rules in that office is that all phone calls must be returned within 24 hours. The same was said of emails. There is no reason why communication from a client can't be responded to within one day. From experience, there is nothing more upsetting than not getting a call from someone you hired and need help with an issue.

I always have a saying that says: "I needed you, you weren't there, I don't need you anymore." If that is a client who thinks that, you'll be gone as the plan provider.

It's a changed and less profitable world for financial advisors.

It's different kind of world from where you come from.

In the good old days of participant-directed 401(k) plans, a good chunk of financial advisors did very little work for the plans that they advised. Many of them sat back, collected their trail or asset-based fee, and maybe saw the client once a year. Thanks to changes in regulations and court decisions, the day of wine and roses are over.

Court cases have made it far easier for 401(k) participants to sue plan sponsors. These cases have shown that many plan sponsors don't do a very good job in managing the fiduciary process in developing an investment policy statement (IPS), reviewing plan investments against the IPS, and providing participant

education.

While so many other plan providers tell me that they are jealous on how much advisors charge and how little they do, a financial advisor is an integral part of limiting a plan sponsor's fiduciary liability and so many are underpaid for what they do. Sure I have found those advisors making 60 basis points on a $14 million plan and do nothing, there are so many advisors that understand their role and do a great job in limiting a plan sponsor's liability, The fiduciary process of being a plan sponsor is an arduous task, so plan sponsors need to rely on someone and that someone is a financial advisor, Whether they serve as a broker, co-fiduciary, or an ERISA fiduciary, a financial advisor has a job to do. The days of showing once in a while offering no IPS help or participant education is slowly becoming part of the retirement plan past.

The day where an advisor can simply put a plan on a bundled platform and forget about the plan until the quarterly fee is paid is over. Financial advisors will have to help the plan sponsors out to manage the fiduciary process. If financial advisors are not up to the task, then they should surround themselves with those that can like an independent ERISA attorney or a top-notch third-party administrator.

Financial advisors can sit back and pretend the good old days are here, but they stand at the risk of losing business to those breed of financial advisors that know their role and will strive to fulfill it.

Matrix sued over Vantage Benefits.

It's a stretch to call Matrix a fiduciary.

If you've learned anything from me, just realize that anyone can be sued for anything. All you need to be sued is the purchase of a court index number and the filing and serving of a complaint.
I've been one of the few people following the Vantage Benefits case and I was contacted by a representative from Matrix Trust Company about a class action lawsuit filed against them in a Colorado Federal Court .

Two Texas A&M retirees filed a class action lawsuit against Matrix Trust Company. The complaint stated that Matrix provided custodial and trust services for section 403(b) Retirement Plans, including Plans associated with Texas A&M University, Vernon College, Collin College, Laredo Community College, and Tarrant County College. Vantage Benefits Administrators was the record keeper for those plans. The retirees are seeking compensation from Matrix for failing to meet its obligations as a trustee to protect their savings.

The representative from Matrix stated: "This lawsuit is completely without merit. Matrix Trust Company did not manage these investment accounts or serve as a trustee or fiduciary for them. This lawsuit involves accounts that were opened and managed by Vantage Benefits Administrators. Matrix's actions were consistent with its custodial agreements and intends to vigorously defend itself against these baseless claims."

I don't usually opine about litigation, but I think Matrix is in the right on this one. First off, 403(b) plans don't have trustees on the plan. So how did Matrix serve as a trustee? Second, Matrix denies that it's a trustee and said they provided custodial services for the plan. Being a custodian doesn't make them a fiduciary on the Plan. It just seems that the Plaintiff's attorney doesn't really understand how 403(b) plans work and how Matrix as custodian only, doesn't meet the level and

duty of a plan fiduciary.

Chicago: Two Advisor Events and a Cubs Game.

A Happy Hour too. September 12-13th. Be There.

I'm very proud to announce that The 401(k) Conference will emanate from the friendly confines from Wrigley Field on Thursday, September 13th. If you're a 401(k) financial advisor, you get 4 hours of content, lunch, a Wrigley Field Stadium Tour and a meet and greet with Hall of Fame member Andre Dawson for $100. In addition, we're having a Cubs game outing the night before on Wednesday, September 12th as the Cubs take on the Brewers. Tickets for the game are $100 and are going quickly. Tickets for the game and conference can be found here.

My friends at PCS have decided to join in the fun as they will be having their 401(k) advisor event, The Advisor Lab on Wednesday, September 12th. It's a half-day of great 401(k) content, followed by a Happy Hour before that Cubs game we have. So if you're an advisor in Chicago or points elsewhere, this is a great way to spend 2 days in the Windy City. Sign up for The Advisor Lab here.

Chicago this September 12th and 13th is the place to be if you're a 401(k) advisor.

As for where we are headed next in November, here is a sneak peak. More information will follow. Sponsorship opprtunities are available now.

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