

# The Choices You Make As A Retirement Plan Provider

By Ary Rosenbaum, Esq.

One of my favorite movies is *Caddyshack*, especially the interaction between Rodney Dangerfield's Al Czervik and Ted Knight's Judge Elihu Smails. It was the slobs versus the snobs and the way Smails looks down on Czervik reminds me of the way that my old law firm's managing attorney looked down on me (sorry, Lois). While trying to keep the word of his niece's loose morals secret, Judge Smails tells caddy Danny Noonan that he has sent boys younger than Danny to the gas chamber because he felt he owed it to them and simply asked: "The most important decision you can make right now is what do you stand for, Danny? Goodness... or badness?" While we're not sending anyone to the gas chamber as a favor, we have to decide what we stand for, like retirement plan providers. We have a choice to be good or bad, we need to choose wisely.

## What do you stand for?

When I started my practice in 2010, I was very disillusioned after my two-year "sentence" at a semi-prestigious law firm. Based on my lack of billing, lack of support from "Judge Smails," I knew my time was up and I decided that I just didn't want to work for anyone again. I was nearing 40 and a little too old to be an associate anymore. I was told by a friend to talk to another law firm and that firm's managing attorney said that if I could bring in \$400,000 of business, that would allow me to collect \$150,000 in salary. If I could bring in \$400,000 in business, why would I need a law firm? So when I started my prac-

tice, I looked at my role at that old law firm and decided that I wanted to be different. My worth as a law firm associate was measured by billable hours, not by the quality of services or the relationships I built with retirement plan providers around the country. The firm needed my billable hours to continue feeding a bureaucracy of employees who didn't bill and fancy offices that most of our clients never visited. With my practice, I figured if I just billed \$6-8,000 a month, I'd be fine. That's why I would focus on flat fee billing. Flat fee billing is



what I pretty much did with the work I did for 9 years as an attorney for two third-party administration (TPA) firms and I thought clients appreciated it. It would allow me to fund that monthly "nut" I needed to continue my household and it would give my clients a cost certainty on another legal work they needed on their retirement plan. I also decided that I would develop relationships with plan providers around the country by providing free content of articles they could use for their marketing purposes and

providing free advice for a simple question without a bill attached. Like putting two pieces of wood together to create fire, this allowed me to get my name out there, nationally. Whether your business is new or it's been around forever, you should figure out what you stand for. How will you differentiate yourself from other competing plan providers? What can you do to let yourself stand out in the marketplace? You also need to choose like Danny Noonan, will you stand for goodness or will you stand for badness? Most retirement plan providers are professional in how they deal with their clients and other plan providers. Yet, there are a few providers who think this is high school and treat their clients and plan providers with disdain. This is a business built on trust, the trust placed in us by our clients and other plan providers. Operating a plan provider practice that abuses that trust may make some extra money over the long haul, but people will eventually catch on. The choice is yours and I'm sure most of you chose to be

good, a long time ago. One of my favorite words in Yiddish is *mensch*. *Mensch* means a person of integrity and honor. If you're a *mensch*, you'll get a lot farther than someone who is a *gonif* (Yiddish for thief)

## The most precious asset that you may not realize

The reason I don't have employees is that I was an employee once too. Most of the time, I didn't feel I was appreciated. Whether it was the lack of money or ben-

efits or seeing inferior co-workers have more of a say in the running of the business, being an employee was never satisfying. Some birds aren't meant to be caged, some people aren't meant to be employees. I think for plan providers, their most precious asset is their employees. A good chunk of the time, the folks running these plan provider businesses don't realize it. I see that a lot when a small plan provider is bought out and slowly, but surely, the reason you went to this provider is gone since their top employees have exited stage right. I once got an earful from one of the bosses of the TPA I worked at when



I suggested in the lunchroom innocuously that (since our TPA was bought out) when there is a company purchase, change is inevitable. The sad fact is that even with the consolidation of the retirement plan business, good workers are still hard to find. The reason is that so many plan providers give little training, I worked for two TPAs that weren't very good at that, both for new and seasoned plan administrators. The point of having well-trained employees instead of incompetent ones is because they go a long way in maintaining clients, as well as providing a competent plan service. A bad administrator or poor support staff can help you lose clients and it's easier to lose clients than gain them. A huge turnover of employees is a bad look to show your clients and the employees that remain, who think they might be on a sinking ship. Turnover wastes a lot of time and money when you have to hire new employees. I worked at a TPA where I jokingly said the front door to the office should have been a revolving door. You need to avoid turnover. Good employees that are happy where they work, rarely leave. Whether it's pay, benefits, or other types of rewards, employees want to feel appreciated. I worked for one TPA and while I was told what a good job I was doing all year, the annual review for a raise is where I was told how no good I was. That type of passive-aggressive behavior wears on you, believe me. Having empathy goes

a long way, you need to view things from your employees' view. Telling an employee how you didn't have an issue traveling in the snow is irrelevant if you own the business because as an owner-employee, you have more incentive to get to the office. Treating employees like they're important goes a long way towards keeping them.

#### **Being ahead of the curve or being behind it**

The great professional wrestling personality Paul Heyman once said: "Experience is the greatest inhibitor of creativity and innovation. Because you learn from experience what not to do. But it is the unbridled passion and the fearlessness to just go into something with reckless abandon, that allows you to create something from nothing. That allows you to innovate." I've always been a forward thinker, who likes to predict the future. While I thought Amazon selling more than books and movies and Apple starting their stores was crazy, I do have a decent record of seeing things in the future. My dumb luck is that I was involved with organizations that were never forward thinkers. Whether it was the producing TPA that didn't think fee disclosure would ever be a thing or the law firm that didn't know people would hire lawyers from social media, I have seen quite a few organizations make poor decisions upfront. Success and experience can be a double-edged sword because they can create a false sense

of security that the good times will last forever. At that producing TPA, I told a plan administrator that revenue sharing as the method to defray plan administrative expenses for 401(k) plans would eventually come to an end, he thought I was crazy. We see from history that certain providers can't deal with change. How many insurance companies we know shed their TPA business because they couldn't deal with a fee transparent environment after the disclosure regulations were put into place by the Department of Labor in 2012. There were quite a few plan providers who promoted

fee transparency before they were legally required to do so and that helped their business. As a retirement plan provider, you need to identify what the trends are and how they will impact your business. Sitting back and twiddling your thumbs reminds me of the purser in The Poseidon Adventure who told all the passengers to stay in the ballroom for help after the ship overturned, which caused hundreds and hundreds to drown a few minutes later. When you have a chance to live, take it and that's by identifying a moving landscape as this business is never stagnant.

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