

Small Steps That Plan Sponsors Can Take To Limit Their Fiduciary Liability.

Some small things that can be done.

When it comes to our health, small preventative steps can help us avoid greater harm to our health later down the line. We have been told of the great health benefits of taking baby aspirin for heart health and how we can lower our cholesterol with the choices we make in what we eat. There is no greater example than flossing and brushing your teeth to avoid cavities and a root canal later from the dentist.



The thought of my parents' periodontal surgery has me chugging that Listerine every morning and night. The same can be said for retirement plan sponsors and how small preventative steps can nearly eliminate all potential liability associated with establishing and maintaining a plan for the benefits of its employees. So this article is about how you can minimize your liability as a plan sponsor by taking care of the small stuff.

For the article, click [here](#).

"Plain" Advice to Retirement Plan Sponsors.

Just simple stuff.

I don't know about you, most of the advice I got growing up was usually wrong. Maybe some very unsuccessful people surrounded me when I was younger, but advice can be biased and self-serving at times. The best advice I would ever get was from successful people with great people skills and confidence in their own abilities. The problem with advice given to plan sponsors is that it's often self-serving by the plan providers who want to maintain or get the business from plan sponsors. So this article is plain advice to retirement plan sponsors that you can take or leave, I won't be offended.



To read the article, please click [here](#).

Pick Plan Providers Just Because They Are Cheap Is A Bad Idea.

It's a mistake.

My wife loves a good bargain; I have lots of credit card bills to prove that. Seriously, my wife is an excellent shopper because she is a savvy shopper. My wife likes a good bargain and it's about value, getting something in quality that is on sale. Why buy something at retail price, when you can get in a



few weeks at 30% less? The Lego City sets we get for my kids are much more enjoyable to us when it's 50% off than when it's retail. But a bargain is different than something that's cheap, a Lego City set that's 50% off is a better value than the generic Lego knockoff that you see sold at the local 99 cents and up store. As a plan sponsor, you have a fiduciary responsibility to find a bargain when it comes to picking a plan provider, but you may increase your potential liability by picking providers just because they are cheap. This article is about why you shouldn't pick a plan provider just based on them offering a low price.

To read the article, please click [here](#).

Focusing too much on Plan fees isn't healthy either.

Not a good thing to focus just on that.

I remember as a kid that there was move to use margarine because of the cholesterol that was in butter. Who can forget those talking Parkay carton commercials? Of course, we later learn that many margarines had high amounts of trans fats, which is just as bad as cholesterol. For the past 45 years, we're still having a similar debate with sugar vs. artificial sweeteners.



In the retirement plan business, we don't deal with margarine and NutraSweet, but we have been talking a lot about fees. Plan

administration fees have been the talk of the retirement plan business for the past 7-8 years and continued focus thank to the fee disclosure regulations put forth by the Department of Labor. The obsession about fees can be a problem when the discussion about selecting and or replacing plan providers is based solely on fees. Fees are really about reasonableness and paying reasonable plan expenses for the services provided. It's not about picking the cheapest provider.

Focusing too much on fees means there is less focus on finding the right providers and a good chunk of the time, the best provider candidate for the plan isn't the cheapest. I see too often, plan sponsors picking a cheap third party administrator that is short on competence, which leads to higher compliance costs later when penalties are tacked on for incompetent administration. Fees should always be a concern but focusing too much on fees is like eating margarine with high trans fat because it's as unhealthy as butter without the taste.

Most Attorneys are not ERISA Attorneys.

There is a difference.

Unfortunately, I have gotten involved in the politics of my local village which contains so much conflicts of interest and cronyism, it reminds me of the retirement plan business when I started in 1998. A lot of the fighting goes on Facebook and as an attorney, there is nothing funnier that non-attorneys who profess their knowledge of the law and get it



completely wrong. I had someone threaten to sue me for age discrimination because I mentioned they were retired. This is what you have to deal with. As an ERISA attorney, I also have to deal with attorneys who think they know retirement plans and they don't.

I have been practicing in the ERISA field for over 16 years and that is all I have done since I first started working after getting my tax LLM degree at Boston University.

When people find out that I'm an attorney, they often ask questions that have nothing to do with ERISA. While I can probably pass the state bar again if I have to, I have forgotten more about the law outside of tax than I actually remember. So when people ask me for legal advice outside of tax, I refer the matter out.

On the flip side, just because someone is an attorney doesn't mean they know ERISA or the Internal Revenue Code as it pertains to retirement plans. Yet when my services come up for a business that has general counsel, I often find the reaction that the general counsel feels that my services aren't required because they claim that most companies their size don't get sued over their retirement plan.

I get that reaction a lot. Heck I worked at a semi-prestigious law firm with some snooty lawyers who could never turn down a free meal, but turned down opportunities to refer my services to their clients. Let's not forget how badly their 401(k) plan was run before I reviewed it (no advisor, no education to participants, no review of investment options for 10 years, and no investment policy statement). From what I heard, they are still having problems because the human resources director is still doing a "fantastic" job running it.

An ERISA attorney isn't the right person to ask about a criminal matter or adoption and a non-ERISA attorney isn't the best person to ask if the retirement plan that your company has is being run efficiently and what the liability threats.

Heck, there have been attorneys sued by the Department of Labor (DOL) for embezzling and transferring retirement plan assets. They didn't know much about ERISA.

Comedy Show, Saturday, February 7th.

Sal "The Stockbroker" Governable from The Howard Stern Show.

For those in the Long Island/NYC area, I hope you can join me for a great night of comedy on Saturday night, February 7, 2015 at 7:30 pm with Sal "The Stockbroker" Governale who his well known for his comedy bits and phony phone calls on The Howard Stern Show, as well as his own YouTube cooking show "Big Meals, Small Places". This event that I am running is for the benefit of my synagogue, Congregation B'nai Sholom-Beth David in Rockville Centre.

Tickets are \$40 per person. There will be raffles including a 50/50 raffle.

Satellite Radio Personality & Celebrity Chef from Big Meals, Small Places.

Comedy Night, One Night Only!

SAL

**"THE STOCKBROKER"
GOVERNALE**

and Friends

Saturday, February 7, 2015, 7:30pm

Tickets:

\$40

Free Babysitting, Free Beer and Wine.
Great Raffles.

Congregation B'nai Sholom
Beth David



100 Hempstead Avenue
Rockville Centre, NY 11570
bnaisholom.com

516-764-4100



Comedy Night, One Night Only!

Satellite Radio Personality & Celebrity Chef from Big Meals, Small Places.

**SAL "THE STOCKBROKER"
GOVERNALE**

AND FRIENDS

Saturday, February 7, 2015, 7:30pm

Congregation B'nai Sholom Beth David
100 Hempstead Avenue
Rockville Centre, NY 11570



Free
babysitting
available.
Free Beer,
Wine, Soda and Snacks.

If you would like to sponsor the event or donate something for the raffle, please see the attached sponsorship form.

To sponsor or order tickets online click [here](#).

I appreciate any help in what I think will be a great event.

Admission: \$40 (per person)
Includes Free Beer and Wine, Free babysitting, Plus... lots of Raffles and Great Prizes.

NAME: _____ Phone Number: _____
EMAIL ADDRESS: _____
of people attending _____ x \$40 = _____

Sponsorships Available:

<input type="checkbox"/> Event Sponsor (includes admission for 8 people)	\$2,000
<input type="checkbox"/> Refreshment Sponsor (includes admission for 4 people)	\$1,000
<input type="checkbox"/> Bar Sponsor (includes admission for 4 people)	\$1,000
<input type="checkbox"/> Business Card Sponsor for Program	\$150

I would like to donate the following prizes for the raffle: _____

For more information, contact the Temple office at 764-4100 or email Don at don@bnaisholom.org or visit our website www.bnaisholom.com

Please return this form and your check made out to Congregation B'nai Sholom-Beth David to the Temple office by February 1st.

To pay by credit card, please visit our website or call the office.

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