Dealing With 401(k) Industry Consolidation As A Plan Provider

By Ary Rosenbaum, Esq.

Unless you have been living under a rock or in a cave for the past dozen years, there has been a lot of consolidation in the retirement plan business. For many, it's a great thing and for many, it's not. As a retirement plan provider, it is a challenge and an opportunity. This article is all about dealing with consolidation in the retirement plan business.

Consolidation was inevitable

Consolidation in the retirement plan business was inevitable because of technological improvements, demographics, and regulatory change. Technological improvements in the retirement plan space spurred most retirement plan providers to ramp up technological spending and many other firms couldn't compete. When one third-party administrator (TPA) had the website and app with the bells and whistles, there were plenty of TPAs who had websites that echoed what Relius looked like in 2004. I've known TPAs that felt the need to merge or get bought because they knew they could no longer compete in the technological aspect of the business. As for demographics, plenty of TPAs, advisory businesses, and other professionals, were getting older and with no successors in place, felt the need to sell out. If you're in your 60s and your children have no interest in continuing what you've been doing, a cash-out is probably wise. In addition, fee disclosure regulations spurred many plan providers to exit stage left and get bought out or sell out their books of business. These providers probably knew they could not compete in a transparent fee environment, so they would rather sell high than lose business and close their doors anyway. How many well-known insurance company providers left the business in 2012, which only helped providers like Empower become industry heavyweights? Any change in the retirement plan business as momentous as fee disclosure would create consolidation, just like other previous jolts to the industry.

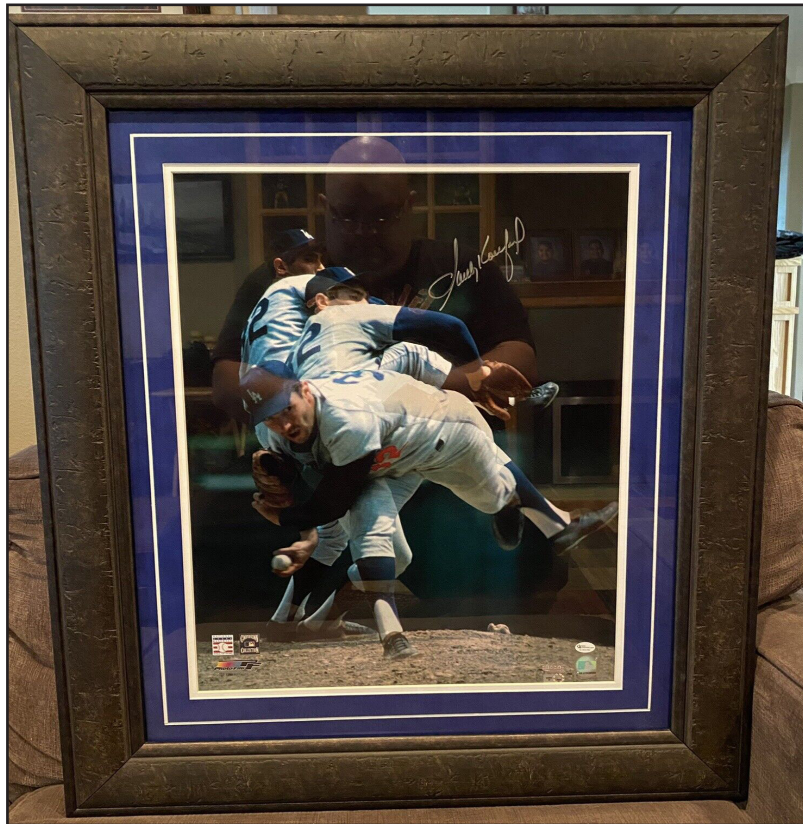
Bigger isn't better

There will be plan providers out there, that will be Chicken Littles and proclaim the sky will fall because competing providers are getting bigger and bigger. They might be the same Chicken Littles who claimed that because of fee disclosure regulations, 401(k) plans would terminate and there would be a race to zero in administrative fees. There are plenty of plan providers who have become bigger through acquisitions and mergers, but being bigger doesn't mean they will be better and it doesn't mean they will gobble up every plan you have on your books.

It's an opportunity

I'm an ERISA attorney and I've been on my own for 14 years. I've never had an employee and I never will because I was an employee once too, and I don't need the headache. There has been upheaval even in my neck of the woods with many well-known ERISA joining or leaving firms. Maybe one day, all the well-known ERISA attorneys will group up and create a super duper team of ERISA lawyers. In the end, that doesn't concern me. Being on my own and working from my couch with the sights of my Sandy Koufax autographed photo above the television, means I don't have to raise my rates. I have charged the same money for a plan document, just like I did in 1998, working for Harvey Berman. How is that possible? Drafting a volume submitter document is far quicker in 2024 than it was more than a quarter century ago and thanks to the world of PDF and Docusign, I no longer have to make the trek out to Staples to bind a plan document. Other firms have fancy offices and 3 people in billing. They

can't compete with me on fees and they can never survive by charging clients on a flat fee. Larger providers are slower, with so many moving parts and departments/bureaucracy. Being smaller has its advantages, you're nimble. You can make tactical decisions that don't take forever. I once worked at a law firm, it would take 6 months and 3 levels of partners to approve one of my articles to get published and disseminated. On my own, I can crank out 25 articles and about 150 blog posts in that time frame. Thanks to that production, I keep my name out there and the ability to interact with plan providers and plan sponsors, which gets clients. Being smaller, allows you to act quicker and change quicker, with whatever is going on now in the retirement plan business.



Bigger providers will jettison some business

Larger plan providers that purchase competitors or merge with them, always go through some type of reorganization. In addition to eliminating redundant employee positions, they're going to cut back on lines of business that aren't as profitable as other lines. That means lines of business with smaller plans are likely to be cut because we know that smaller plans make less revenue and are less profitable. The pricing of these larger plan providers will probably be more costly and their minimums will be higher. I remember losing touch with a TPA that increased their minimums to $7,500 from $5,000 after they were bought out. If you speak with any of these larger providers, they charge for Pooled Employer Plans more than some small, single-employer plans.

Lots of people placed on waivers

Being in this business for 26 years, I've been a part of two purchases of the business I worked for. It wasn't fun. I've had quite a few friends who have enjoyed promotions through some of these business purchases and mergers. I have way more friends that have lost their jobs because of this compilation. Again, mergers and acquisitions look at cost-cutting, and redundant positions will be eliminated to save money. A mutual fund company bought by another doesn't need multiple DCIO salespeople for the same territory. Same with the staff of other plan providers. Good help is hard to find, but consolidation means there might be some terrific talent on the sidelines who don't have current employment. I have a plan administrator who lives near me and has been out of work for over a year. One of the drawbacks of consolidation that no one wants to talk about is the loss of jobs.

Consolidation can ruin a competitor

Again, I've been in this business for more than half my life. One of the problems in this business when it comes to consolidation, is that when a retirement plan provider is being run by morons, the company that buys them out, actually keeps these morons on payroll for another 3-5 years. That was my experience for two transactions where the dumb members of management signed deals to stay on. On the flip side, I've seen way too many purchases and mergers that depleted the reasons why you would work with that provider. For example, I've seen two local TPAs run into the ground, a few years after they were purchased. The owners who sold out stayed, but the administrators, actuaries, and salespeople I liked, were either fired or run out by the acquirer. If your competitor is being bought out, that might be a cause for celebration because most of the time, that small competitor will experience a brain-drain that will hurt their business because the acquirer doesn't know what type of talent they have lost until it's too late.

Do what the competition isn't doing

I sound like a broken record, but a major position of starting my business 14 years ago is that I would do things that my competition wouldn't. As discussed, law firms are chained by high overhead and the need to overbill by the hour to pay that overhead. I would have a law firm with low overhead with flat fee billing that would give clients cost certainty and eliminate the stress they could get when they got my bill. I also would have an open door policy with providers that had questions and provide free content they could use for their marketing purposes. Larger competitors have their chains and can't work the way you do. They may offer a team approach to working with a client, so maybe have that one point of contact. Come up with new ideas, programs, and lines of communication. See what they're doing and be different in the way you conduct business, charge for it, and market yourself.

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