

Do You Want To Be A 401(k) Financial Advisor? An Intro.

Well do you?



Whether you're financial advisor who is not in the 401(k) business and want to be in it or you're the financial advisor who wants to dramatically increase their small book of business, this is the perfect time. With dramatic changes in the industry because of fee disclosure regulations and the potential change in the definition of fiduciary, financial advisors who are serious in doing a top-notch job as a 401(k) advisor will find plenty of opportunity to develop and increase their book of business. As I always say, if you don't do it right, don't do it at all. A 401(k) advisor who will do it right by doing their job and making sure their clients do their job will find the 401(k) plan business very rewarding. So this article is for

financial advisors who want to start or improve their lot as a 401(k) financial advisor.

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

Don't make yourself a target.

It's asking for trouble.

Sometimes if you don't want to be a target, don't make yourself to be a target.

Insperty Inc. a provider of outsourced human resource and business management services to small and mid-sized businesses has been sued by participants in a Insperty 401(k) plan. It has been alleged the company and its subsidiaries charged "excessive" record-keeping fees and made other fiduciary breaches of ERISA.

The complaint also alleges that



Reliance Trust Co., the discretionary trustee for the plan, breached its fiduciary duties by allegedly making "imprudent" investment decisions.

The employees of Insperty's client companies are offered participation in the 401(k) plan. Insperty offers its services, which include payroll and benefits administration, to more than 100,000 businesses with more than two million employees.

The problem is that Insperty hired Insperty Retirement Services, a wholly owned recordkeeping subsidiary to be the service provider to the Insperty 401(k) plan. The 401(k) plan ended up being the new record keeper's first client. The problem also is that in 2013, 95% of Insperty Retirement Services' assets under administration as TPA belonged to the Insperty 401(k) Plan.

It was also alleged that the fiduciary trustee and advisor to the plan, Reliance Trust, selected and retained its own high-cost and poorly performing investments to benefit itself at the expense of plan participants.

Now the participants, Insperty, and Reliance Trust will have their day in court and the allegations in the complaint are allegations. However, I always believe that as an ERISA attorney, it's my duty to keep my clients from partaking in prohibited transactions and it's even my duty to avoid relationships that suggest that prohibited transactions take place.

Now perhaps no prohibited transactions took place, but do you think Insperty hiring a subsidiary for plan administration and hiring a trustee where the trustee's proprietary investment options are available just doesn't look right.

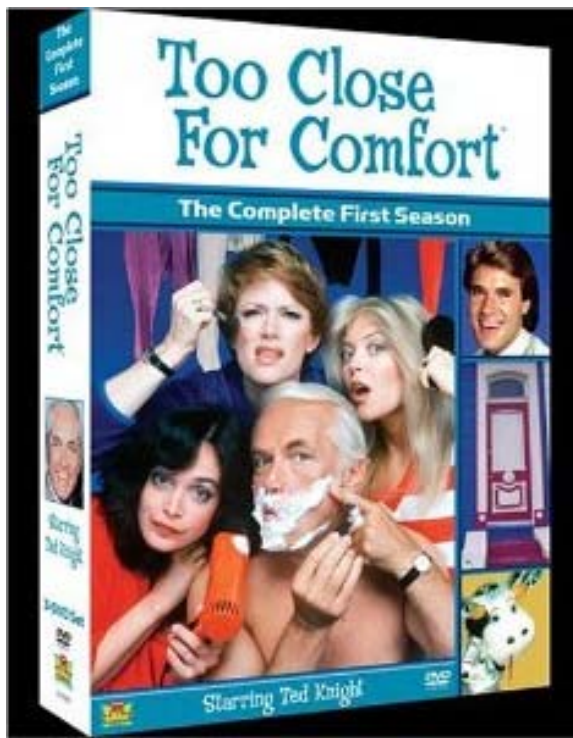
Now what did I say about not making yourself a target?

ERISA litigators love targets, whether there were improper transactions or not.

Don't leave your level of comfort.

Do what you always do.

The law firm I started a few years back is actually more than 15 years old as it was a shell where I could offer legal services on the side while I did my normal day job. It was an experiment on whether I could go out on my own and I learned during that time what worked and didn't. I can tell you that advertising in the local Pennysaver or advertising



yourself as a low cost legal provider are likely misses.

So part of my practice was offering most services such as tax preparation and wills on a flat fee. For a time, wills were ridiculously low such as a will for \$100. I had a tax client who wanted me to do a will and she knew about those fill in the blank forms that Staples offered. I had software that produced wills in a Microsoft Word format. The clients asked me whether I would do their wills using those fill in the blank forms and whether I would cut my fee. I told them I

wouldn't because that was outside my comfort zone and my will fee was ridiculously low as it was.

A good part of my practice is working with financial advisors and TPAs. Some have me on a monthly retainer; most just call out of the blue with questions (feel free to call). Many advisors ask for my opinion on clients who request something outside the box, such as asking an ERISA §3(38) fiduciary who uses index funds to retain some of the actively managed funds that the previous advisor added to the fund lineup or a financial advisor being asked to assist a plan sponsor with an Internal Revenue Service (IRS). Being a retirement plan provider is hard enough without adding stuff to your plate that may put yourself out of your level of comfort. If you are a §3(38) fiduciary, the whole point was for the plan sponsor to offer discretionary control over plan investments and you don't have control when the plan sponsors is asking you to retain their previously added investment options. Being a financial advisor doesn't mean being an ERISA attorney in handling plan audits.

The road to hell is paved with good intentions and I am sure that there have been plan providers being sued for errors caused in favors these providers did for specific plan sponsor clients that the provider knew was out of their level of comfort.

It's easier to say yes to every plan sponsor request, but it takes a better businessperson to turn down business that may increase your liability and get you out of that zone of comfort.

Trust in this business takes time.

It's not instantaneous.

Suppose someone you never met before comes up to you and asks whether they can stay at your house or someone you never heard of, all of a sudden wants to be your partner and best friend. Any business relationship and any personal relationship you have requires trust and trust is something that doesn't develop over night.

When I started my own law practice over



5 years ago, I knew that I needed time to develop my business. Financial advisors and third party administrators weren't going to recommend their clients to me based on a couple of articles I wrote or a quick meeting. It was going to take time in developing relationships by building my reputation and by developing trust.

Yet I'm always baffled by the broker who calls me up out of the blue and starts inquiring about my clients and whether my clients are happy with their current financial advisor, which is disconcerting to me when a good chunk of the time, a financial advisor has referred me this client. Even if a financial advisor didn't refer me this client, I barely know this broker. I can recall how many times in my law practice where I met an insurance agent to network and all of a sudden, they are trying to sell me life insurance that I couldn't afford and didn't need.

When I talk to other retirement plan providers, I don't ask them which ERISA attorney they work with. These people know what I do and if they like what they hear from me or see what I do, then maybe they will hire me or refer me when there is a need for an ERISA attorney.

Networking and developing relationships in this business is like dating. It's a process, it takes time, and most of the time, you'll come up short if you cut to the hoop too quickly.

Whether it's working with clients or other retirement plan providers, you need to know that any worthwhile relationship will take time and requires trust.

enrollment materials are better. Investment options are better; investment options are also less expensive. Investment advisors are more knowledgeable. Third party administrators are better in their customer service. Communication is better and information is easier to obtain thanks to the web.

The only people who think 401(k) plans are better back then are probably those that made a lot more on an industry that was cloaked in secrecy and hiding the balls from plan sponsors and participants.

Just say sorry.

You'll be glad you did



I once referred work to an accountant for a retirement plan audit. He did a terrible job and there were issues regarding his ability to do the work. Making a lousy referral is even worse than doing poor work of your own because at least you had control over your own work.

Of course, I was embarrassed and the accountant came up with so many embarrassing excuses and I looked like a moron in front of this plan sponsor.

Yet, despite everything, all I wanted was an apology from the accountant.

Sometimes all you have to do is to say sorry if you mess up or if the client is disappointed in anyway even if it was something out of your control. Saying sorry and not making any excuses is a good way for your clients to release tension because unhappy clients leave and just fighting over something just because you won't simply say sorry is silly. Saying you are sorry isn't the same as admitting guilt and sometimes, it's better to give in even though apologizing is not giving in.

Clients needs to know you care and just being indignant in refusing to apologize for anything can go a long way in causing grief for your business that you do not need.

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