

Plan Provider Marketing That You Should Tune Out As A 401(k) Sponsor

By Ary Rosenbaum, Esq.

As a solo ERISA attorney am trying to sift through the emails, robo calls, and LinkedIn invitations from people who are trying to sell me something. I'm a big fan of good marketing and most of what I see sucks. Whether it's the person trying to sell me web services using a Hotmail or Gmail e-mail address or trying. To sell me litigation support when I don't litigate, it's way off target. As a 401(k) plan sponsor, you're going to be inundated by plan providers trying to sell you their services. Most of it is truly awful and this article is all about my advice of what plan provider marketing you should appear interested in, and what doesn't work.

The cold call

It's 2024 and I'm still surprised that 401(k) plan providers still do this. The only retirement plan providers that make out with this level of marketing are the database companies that mine information from the publicly available Form 5500s. Why do I think cold calls are the worst kind of marketing? Most people have caller ID and don't want to answer the phone when they know the call is likely to develop into a sales pitch. For so many calls these days, I'm amazed why they bother with the marketing phone call when so many have this beep, indicating it's some marketing call. That being said, what ever happened to the Do Not Call registry? Anyway, retirement plan providers are important cogs in minimizing your potential fiduciary liability as a 401(k) plan sponsor.

Would you hire one, just because they called you out of the blue? I know I'm going to offend plan providers who do this, but I think it's bottom-of-the-barrel marketing.

The e-mail/snail mail pitch

Like with the cold call, plan providers have mining databases with retirement plan information that they could use to recruit potential plan sponsor clients. I'm a retire-

I'm not suggesting that every plan provider mail piece is junk, but I have yet to find a plan provider who will entice me to open the envelope. The same can be said about email. Most emails that are unsolicited are immediately deleted. I have never seen an email from a plan provider in marketing that was interesting enough to hold my interest for more than a sentence or two. I believe that plan provider consideration from you should be solicited by you and not unsolicited by them.

The free event

When I was about 17, I went with my parents to Disney World. 1989 Walt Disney World trips were a lot different than today, namely back in 1989, there were only two hotels on the property (the Swan and Dolphin were being built). That means spending a lot of time on International Drive and since my parents liked package deals, the trip always included a stay at a really awful motel. I think eating at IHOP or Denny's, my parents found a stand where someone was promoting free tickets to theme parks and the like. Of course, my parents weren't sophisticated and fell for this marketing trap. They wanted free tickets to Medieval Times. As you know, there is nothing free about free tickets. The "free" tickets required my



ment plan sponsor and a plan fiduciary for about \$500 million in plan assets. Occasionally, I will see a piece of mail from a plan provider and it immediately goes in the trash. Most junk mail goes in the trash.

parents to attend a marketing pitch at some timesharing place. I question to this day, whether that sales pitch was worth the tickets. Medieval Times prime rib isn't terrible, had plenty worse at Bar and Bat Mitzvahs.

From time to time, I will see plan providers have free events. Again, as a plan sponsor, I see these things. I've been invited to free meals at the local steakhouse, the local diner, the local IHOP, and the generic hotel catering meal. I'll be honest, a plan provider could offer me a free at Peter Luger's or The Cheesecake Factory and I'll say no, a sales pitch will ruin my appetite. I have even spoken at events like this and I assure you, people aren't interested in the retirement plan discussion I gave with no sales pitch, they care about the food only. Recently, I was offered a free boat ride at the local big-time marina. Unless it's a boat trip down the Danube, I don't have interest. These marketing ploys are expensive and I think hiring a plan provider because they gave you a free meal or trip looks bad. Retirement plan providers shouldn't receive anything more than de minimis gifts because it looks bad. The 401(k) plan administrator of some law firm that demanded and got free New York Jets tickets from his third-party administrator (TPA) ran afoul of good fiduciary governance.



fact that this program exists means that accountants and attorneys are being compensated by referring specific financial advisors. The best referrals are honest opinions, not paid opinions. If you're presented with a paid solicitor agreement where your accountant or attorney is making money off a referral they made, I'd look for another retirement plan provider, and more importantly, a new accountant or attorney.

The referral program

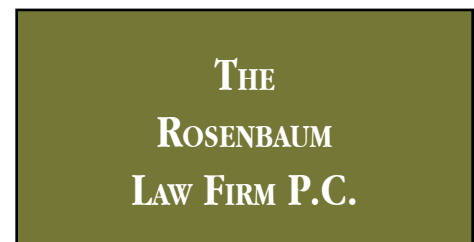
Referrals are such an important part of the retirement plan business. I wouldn't have any business if it wasn't for referrals. Most referrals that people will get from other plan providers professionals or plan sponsors are on the up and up. Sometimes, they are not. I have been in practice for over 14 years and there are countless times where I have been propositioned by some financial advisory programs about their referral program. The idea is that as an ERISA attorney, I'd get a referral fee, tied to the assets of my retirement plan client. Like my soul, my opinions are not bought or sold. As an ERISA attorney, I have a hard time charging clients for unbiased support and then getting my "beak" wet like Don Fanucci in The Godfather Part II. Ethically, I don't even think I can even accept that fee, even if disclosed to the client. Yet, the

Articles, informative events, and honest referrals

One of the reasons I write these articles is because they help craft and cultivate my reputation. They never understood that when I worked at that forsaken law firm because they didn't understand the power of social media. The days of getting hired over drinks at the country club are over. I predicted that their view on marketing would harm that law firm and I'm proud to say they're about less than half the size when I was there. Social media is about using technology to facilitate the creation, sharing, and aggregation of content, ideas, interests, and other forms of expression. For plan providers, it's all about providing information, not cheesy sales pitches. Who is a better financial advisor? The one who talks about fiduciary governance or the one wanting to give you a free trip on

the Circle Line? In addition, free virtual events where plan providers give general information on plan governance are a great way to discover whether the plan provider knows what they're talking about. The constant sales pitches get tuned out, but good information is not. In addition, good referrals from plan providers and well-respected professionals go a long way. Of course, any plan provider search needs some due diligence, That means vetting any potential provider, even using Google. As I have always discussed the owner of TPA who was convicted of stealing millions from his client was barred from the securities business for life for fraud, a simple Google search would have turned that

up. You should even vet those providers that get a great referral from another plan provider or service professional. With so much money and liability at stake, you need to protect yourself and your clients. Always check on potential plan providers and speak to several in an above-board process in selecting one. Content and honest referrals are more impressive about plan providers than any free meal or trip.



Copyright, 2024 The Rosenbaum Law Firm P.C. All rights reserved.

Attorney Advertising. Prior results do not guarantee similar outcome.

The Rosenbaum Law Firm P.C.
734 Franklin Avenue, Suite 302
Garden City, New York 11530
(516) 594-1557

<http://www.therosenbaumlawfirm.com>
Follow us on Twitter @rosenbaumlaw