A Plan Provider's Guide On How Not To Die (Sorry Lois)

By Ary Rosenbaum, Esq.

I started my own practice about 9 years ago because I was involuntarily liberated from my position as an associate at a semi-prestigious Long Island law firm (sorry Lois). At the time, I predicted a very rough road for the firm because of some of the many questionable decisions and practices, especially by Lois, the managing attorney who mismanaged the firm. The firm is dying like I said it would, it's about a third smaller than when I left and it's a textbook case for retirement plan providers on how not to operate a business.

Relying on a name and prestige

The firm was very well known because the son of one of the named partners' sons was the Nassau County Executive and another partner's son accidentally became New York Governor. When I heard about the opportunity to join the firm in 2008, I was enchanted by the firm's name and reputation. Yet after joining the firm, I realized that the name may have some prestige to it, it really didn't have the quality behind it. It's like the Jaguar that Lois drove, it had the prestige, it had the luxury, but it really wasn't any good. The quality of the legal services that the firm didn't make them stand out in the crowd, they were the same as any other mid-sized firm on the Island. Brand names are very important in the retirement plan industry, but there has to be a quality behind it If you're a third party administrator (TPA) and your level of service isn't very good, that brand name is only going to take you so far. Plan sponsors need quality plan services at a reasonable fee, they don't need any celebrities or brand names that do nothing for their plan's administration.

Thumbing their nose at social media

When I was at the firm, my goal was to start a national ERISA practice and while the partners wouldn't help me with their current clients (more on that later), I thought about harnessing the power of social media. The only problem is that the only member of advertising committee mistakenly said it was a form of advertising. It also didn't help that Lois scoffed at it even though her husband who was an attorney, was pretty successful at it in developing his practice. Lois acted as if social media was beneath the practice of law. I've been very lucky to work in a practice that is national in scope and in the past 9 years, it is social media that has allowed me to develop a practice, allowed to speak at some pretty important events, and allowed me to develop some related businesses that have been somewhat successful (that401ksite.com and That 401(k) Conference). You shouldn't be like Lois and scoff at using social media to build your practice. It's not like you're selling lobsters out of the back of your car (aside from the Department of Health sanitary issues, there is nothing particularly wrong about it). Social media is the mechanism where you can provide content and engage with potential clients and spheres of influence. There was nothing wrong with the old way that people can get clients (referrals are still best, networking, etc.), but you should be open that there are other ways to help your brand and spread your message without the expense of advertising and from the confines of your own office.

Not valuing employees

I used to joke that being a law firm partner meant you were never wrong and you never had to be sorry. Being a law firm partner at that firm and working with Lois was at many times, worse than being an associate. They had different tracks of partnerships, so low-level partners had zero say in how the law firm was run, they had no vote at partnership meetings. It was a law firm apartheid where some partners were more equal than others. Being a low-level partner wasn't cracked up to be when they had no pull in the firm and some partners (I know this now) where making tens of thousands of dollars less than I did.

The new law firm partner who toiled in the firm for 5 years and was making $125,000 left to take a position for $75,000 more just 25 miles away. Whether it was the new partner, the associate, or the office staff, the law firm did a terrible job in managing employees. Sure there are no employees out there who think they get paid too much, but you have to have a little empathy and a little concern for the well being of your employees. Employees want to be valued, employees want you to care about them. Sometimes it's not always about salary, it's about the little things that employees care about. I got paid well and I had a decent 401(k) plan there, what bothered me is the absolute disdain that I felt from Lois who didn't like me for some reason and the law firm partners who for some reason, didn't want me to make money for them.

Creating a bureaucracy

I used to joke that when Lois didn't want to deal with a topic, she'd create a committee for it. Of course, she created a social committee which included the tech director who wasn't a lawyer and that advertising committee of one who didn't understand that social media wasn't advertising. Every business including a plan provider business needs structure and levels of management, but that structure shouldn't stifle the exchange of good ideas and self-improvement. As an associate attorney trying to publish an article to draw business, it shouldn't have taken 6 months and 3 levels of partners to get it published. The retirement plan business is constantly changing and you have to be quick on your feet. Putting obstacles in the way of growing a business is a fool's bargain.

Not creating incentives to grow a business

When I started at the law firm, the dream was to grow a national ERISA practice. Of course, I had to wait until I started my own law practice to make that happen. One of the biggest obstacles I had was the attorney origination fee. Any attorney who brought in a client would get the origination credit. For a partner, that origination is 50% of the billed amount. If you were an associate like me, you'd get email credit and nothing else. The problem with the origination credit is that it would create a disincentive for many of the law firm partners to sell new lines of legal services to existing clients.I actually met a bankruptcy partner at one of our law firm's networking meetings who flat out told me that he wouldn't network with existing tax certiorari clients because the tax partner had the origination credit. You should always create an incentive for employees for referrals and sales because the carrot does a lot in growing that end of the business than providing nothing. I once worked at a TPA where all you got was $350 for bringing a client onboard and you had to chase one of the cheap partners for the money. $350 for a client where just a distribution package was $75, so that meant I never referred them a client. Any rewards program needs to create an incentive for all employee to bring in clients, not just some.

Thinking it will last forever

Sears was the nation's most successful retail until they made quite a few mistakes and they are now at death's door. Any business that doesn't prepare for the future especially when the demographics are against them is eventually going to run into trouble. The average age of my old law firm's partners was 68, that was 8 years ago. Instead of preparing for the future, they got older and let a lot of terrific associates and younger partners leave for greener pastures. You always must prepare for the future because we all get older and the business constantly changes. I've seen so many providers in the retirement plan business die off or get taken over simply because they didn't prepare for change. We know of so many plan providers that couldn't survive in a fee transparent environment. The most successful plan providers are going to be the ones that can adapt to a changing environment. One of the worst traits that a business can have is arrogance, you're only as good as the service you provide. I've seen too many plan providers who are arrogant and feel they should be immune to change and immune to challenges in a competitive environment. My old law firm was probably the top law firm on Long Island when I went to law school. Now I can name a half dozen firms that are not only larger but have a greater reputation. As they said in The Shawshank Redemption, you either get busy living or get busy dying. There is no point in sitting around and die.

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