THE ROSENBAUM LAW FIRM P.C.

ADVISORS ADVANTAGE

A Publication for Retirement Plan Professionals

For Retirement Plan Providers, It's All About Making A Connection.

That's all it is.

If you've read an article or two of mine, then you know I'm a big fan of movies. I've a big fan of movies as long as I remember and the movies that are my favorites are the ones that make a personal connection to me. The Shawshank Redemption isn't just about prison; it's about not letting the chains in life bind your mind. The Deer Hunter isn't about the Vietnam War; it's about keeping a promise to a friend. I'm a big Clint Eastwood because I know what it's like to be a loner. The Godfather movies and Schindler's List resonate because it's about how people can change become evil or angelic. Whether it's movies or selling your services or recruiting members for your civic/religious group, it's all about making connections with the audience. So this article is about how retirement plan providers can make connections with current and potential clients.

To read the article, please click here.

DOL Proposes New Fiduciary Rule.

New rule in proposal stage.

Maybe it wasn't Moses speaking from Mount Sinai, but the Department of Labor (DOL) proposed a new fiduciary rule that will change how retirement plan providers give advice. This is a re-proposal of a rule that was previously withdrawn a few years back.

The heart of the proposal is shattering, it will require all money managers, financial advisors and firms that are paid for dealing with retirement savings to do so in their clients' best interests, and to disclose when there are potential conflicts.

The new rule will allow for current arrangements for compensation, fees and educational services (such as revenue sharing) to plan sponsors to continue under a new "best interest contract" exemption.

I won't go into greater detail because the rule is merely proposed and there is enough opposition from Congress and Wall Street that could potentially kill the proposed rule or send it back to the DOL for revisions.

I will certainly keep you all in the loop.

My support for a Fiduciary Rule.

Just my two cents.

The current way that retirement plans are handled by registered investment advisors who are fiduciaries and the bulk of brokers who are not can be explained in a similar, following situation.

Let's say that there are two types of people that can treat a patient, one is a medical doctor and the other who is a medical practitioner (I made up this job). The duty of the medical doctor belongs to helping with the health of the patient. The medical doctor collects a fee and that's it. The medical practitioner has no duty to the health of the patient and gets paid differing amounts, depending on the prescriptions of medicine filled and some prescriptions give the medical practitioner different trails. Some prescriptions will pay higher than others. Which medical professional would you pick to use and why?

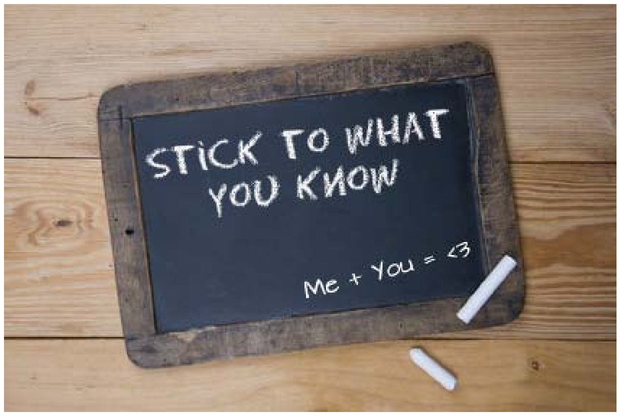
While a retirement plan isn't the same as someone's health, you get the picture and that's why I support a fiduciary rule.

Stick to what you know.

Don't talk about what you don't know.

Over the past 5 years as a solo ERISA practitioner, I always get asked if that's all I do. It's not some kind of insult, but a question on whether I also do financial advisory work and/or third party administration work. The answer is no and I stick to what I do.

Over the years, I've seen plan providers get into trouble by offering



advice that they are not experts in. Unless they have an ERISA attorney on staff, a TPA is not a lawyer and an ERISA lawyer is certainly no financial advisor. My wife and I always chuckle when non-attorneys give legal advice and I'm sure other providers would chuckle if I gave financial and/or plan administration advice.

You should stick to what you know. It will save yourself and your client, a giant headache.

Complacency is a plan provider killer.

It's a problem.

Complacency can kill a retirement plan provider and their business. Complacency is a two fold, being complacent in the retirement plan industry and being complacent with your clients.

Any business whether it's retirement plan based or not, has to change with the time because fact is that no industry is immune to change. You need to be ahead of the game and understand any new changes that go on. Ask the folks at Blackberry about complacency. If you park your car on the raceway oval, don't be surprised everyone else passes you by.

Working with your plan sponsor clients, complacency is all about taking your clients for granted and not reviewing their plan for new plan design studies, cost analysis, or plan provider searches. I've seen too many plan sponsors lose clients because these reviews come from a competing provider. Time and time again, I would hear the client ask why their current provider didn't think of a new plan design first or review of plan fees.

Retirement plan and the retirement plan industry are fluid, which means what is good today maybe not good for tomorrow. You can never be too complacent because losing your client or your competitive edge is just around the corner.

The Earth is not flat, but maybe the bill should be.

Maybe a sign of the times?

I worked for a couple of law firms

for a couple of years and it wasn't my cup of tea. I'm not a big fan of any business that is predicated less on the quality of service and more on how much you bill. Billing by the hour leads to abuse, I know because I was told by a managing attorney once that I did my work too quickly and I should drag it out for billing purposes. My lack of billing is probably the reason I had no future there.

For my national ERISA law/ retirement plan practice (cheap plug here), I bill 95% of my work through a flat fee. I like it because the client doesn't have sticker shock; the bill has an ending, which is open ended when billed by the hour, often predicated on how much the law firm can get you for.

Luckily, financial advisors don't bill by the hour. Typically they charge a fee based on a plan assets. Some financial advisors have resorted to billing on a flat fee basis and other advisors considering the move. I applaud any flexible billing options and the advisors who do that.
I'm not saying that all advisors should utilize a flat fee. Unlike a lawyer's billable hour, an asset-based fee knows an end, which is the limit on plan assets. For the advisor considering a switch to a flat fee basis, it's all a numbers game. Developing a flat fee that will compensate you and not undercut yourself. This is advice from a former employee who undercut his own salary time and time again. In addition, do you have the clientele that will understand the value of a flat fee or have absolutely no interest in how you bill. Flat fee billing is also a nice marketing gimmick, can you market that effectively?

Again, it's not for everyone. Probably a better fit for those getting into the 401(k) space for the first time rather than someone entrenched because a change to a flat fee can unwittingly give an advisor a huge pay cut.

As with any business decision, an advisor considering a flat fee needs to determine where it makes sense and where it doesn't because you don't have to pick an asset based fee vs. flat fee, you can offer a mix of both.

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