

# Tales From That 401(k) Plan Provider Handbook

By Ary Rosenbaum, Esq.

If there's one thing I've learned in more than twenty-five years dealing with retirement plans, providers, fiduciaries, and the occasional TPA who still thinks a "plan document" is optional, it's this: the 401(k) business is never boring. Confounding? Absolutely. Frustrating? Every day. But never boring. That's part of the reason I wrote *That 401(k) Plan Provider Handbook*, coming out January 6th, the first Monday of the new year, because nothing says "excitement" like starting 2026 with a 250-page book about plan administration. But the Handbook isn't just a dry recitation of regulations. It's my attempt to give plan providers a survival guide, a mix of the lessons, stories, and "don't-try-this-at-home" moments that make this industry what it is. And in the spirit of the book, here are a few tales that didn't make it into the final draft, a preview, if you will, things that shaped my perspective, scarred me emotionally, and occasionally made me rethink my life choices.

## 1. The Sponsor Who Wanted To Save Participants From... The Growth Fund of America

One of my earliest clients believed that The Growth Fund of America was the financial equivalent of the bubonic plague. A 401(k) provider had recommended it, and the plan sponsor called me in a panic, certain participants would lose their shirts. "Why do you think it's dangerous?" I asked. "They're American Funds," he said, with the same tone you'd use if you discovered a squirrel in your kitchen. Now, I'm not here to defend or condemn any mutual fund family, everyone has their strengths and weaknesses, but this gentleman had no idea why he disliked them. He had simply heard something, somewhere, from someone, probably at a barbecue, or maybe it was

the dry cleaner, that American Funds were "bad." And that was enough. The point, and one of the themes of the Handbook, is that providers need to manage misconceptions with patience. Because if you don't, clients fill the vacuum with myths, half-truths, and things they heard on CNBC at 3 a.m. when they couldn't sleep. Education is part of the job. Sometimes the biggest problem is not the investment lineup, it's the rumors about the investment lineup.

## 2. The TPA Who Brought a Knife to a Gunfight



I once dealt with a TPA who showed up to a fiduciary meeting with nothing but a summary plan description, a calculator from 1998, and blind optimism. The sponsor wanted to discuss fee benchmarking, revenue-sharing offsets, and redesigning the plan to accommodate a brand-new profit-sharing formula. The TPA, meanwhile, was flipping through the SPD like it was a diner menu. This wasn't malice. It was simply the reality that too many providers are unprepared for the modern plan sponsor: one who reads, one who asks questions, one who occasionally brings an attorney to meetings (preferably me, because

I charge by the hour). In the Handbook, I talk about the need for professionalism and preparation. You can't just show up and hope no one asks a complicated question. Plan providers must proactively become the experts plan sponsors think they already are. Otherwise, you're bringing a butter knife to a nuclear arms discussion.

## 3. The Auditor Who Thought the Plan Was "Fine" Because It Was "Mostly Fine"

There is no such thing as "mostly compliant." It's either compliant or it isn't, the IRS has never issued a determination letter that says, "Close enough, thanks for trying." Yet I once encountered an auditor, an actual CPA, who explained away operational failures with the optimistic wave of a hand. "Is there a late deposit issue?" I asked. "Only sometimes," he shrugged. "And were the plan's eligibility rules followed?" "Mostly." These are the same people who will tell you that a speeding ticket isn't really a speeding ticket if you were "almost going the speed limit." One of the chapters in the Handbook deals with the cast of characters in this industry, the good, the bad, and the ones who think "material weakness" is a personal insult. Providers who take compliance seriously will always rise above those who treat audits like suggestions.

## 4. The Recordkeeper With the Magical Disappearing Fee Schedule

One sponsor came to me because they were convinced their recordkeeper was overcharging them. I asked for the fee schedule. They didn't have it. I asked the recordkeeper. They also didn't have it. Or rather... they had seven different ver-

sions, none matching each other, all apparently drafted by someone who used to write CIA debriefings. Fees should not be a mystery. They should not require a congressional subpoena. And they should definitely not rely on “Bob” from the service team promising that he’ll check with someone named “Megan” who hasn’t been seen since 2022. In the Handbook, I include a whole section on transparency, because plan sponsors don’t get angry about high fees so much as fees they didn’t understand or authorize. Surprises are for birthday parties, not quarterly statements.

### **5. The Payroll Company That Decided to Redesign the Plan on Its Own**

Every plan provider has dealt with this species: the payroll company that thinks it is a TPA, an ERISA attorney, and a retirement consultant all at once. They’re the Swiss Army knife of misapplied confidence. I once saw a payroll company update a plan’s eligibility rules, unilaterally, because “that’s how we usually do it.” They weren’t asked to. They weren’t authorized to. But like a neighbor who decides to mow half your lawn because they didn’t like the length, they took initiative. The result? An operational failure, incorrect deferrals, compensation definition problems, and a client who thought the IRS VCP fee would be \$50 because “that’s what the payroll rep said.” The Handbook devotes significant attention to the division of labor, who does what and what happens when someone decides to do something they shouldn’t. A good provider knows their lane. A great provider stays in it.

### **6. The Conference Attendee Who Wanted a Plan Design That Would Break Physics**

I run “That 401(k) Conference,” so I meet plenty of people who love the idea of pushing plan design to the limits. But one gentleman at Wrigley Field pulled me aside and said: “I want to contribute \$200,000 this year but only want my employees to get 3%. And I don’t want to change the compensation, vesting, eligibility, hours, or testing. You can do that, right? You’re the expert.” I politely explained that I’m an ERISA attorney, not Doctor Strange. This industry is full of people who want the impossible, and providers often make the mistake of overpromising. One of the themes of the book is managing expectations. Providers who promise the moon end up delivering a glow-in-the-dark sticker. Pro-

viders who set boundaries deliver value.

### **7. The Sponsor Who Discovered Automatic Enrollment Ten Years Too Late**

I once consulted for a company that refused to adopt automatic enrollment because the CFO insisted participants “would complain.” Ten years later, under a new CFO, they implemented it, and participation doubled within six months. The original CFO’s response? “Well, how was I supposed to know people like saving for retirement?” The moral is simple: innovation only feels risky until you try it. Auto-enrollment, auto-escalation, QDIAs — these tools exist because they work. And providers must advocate for them. That’s why the Handbook includes chapters on behavioral finance and the responsibility providers have to push sponsors forward, not keep them stuck in 2008.

### **8. The Mystery of the Missing Beneficiary Form**

Every ERISA attorney has dealt with this one: the participant dies, and the plan sponsor cannot find the beneficiary form. They’ll swear it used to be there, perhaps it grew legs and walked away, or maybe the previous office manager used it as a coaster. So they send me the file: an enrollment form, an old W-4, a photograph from the 2009 office holiday party, and a receipt for \$14.72 from Staples. Everything except the beneficiary designation. The real problem? Providers sometimes assume the plan sponsor has everything. Plan sponsors assume the recordkeeper has everything. The recordkeeper assumes the TPA has everything. And the TPA assumes the participant knows where they put it. Nobody knows anything. Which is why I emphasize in the book: documentation is not optional. It’s the only thing standing between you and a lawsuit by a disgruntled family member who suddenly claims they were “very close” to the deceased.

### **9. The Advisor Who Thought Fiduciary Duty Was Like a Gym Membership**

There was an advisor once who proudly told a client, “I’m a fiduciary, but only when I feel like it.” He said it jokingly. Kind of. But the sentiment reflected a bigger issue in the industry: people want the prestige of being a fiduciary without the responsibility. It’s like buying a gym membership and then being surprised you’re expected to actually use it. Fiduciary duty isn’t optional, conditional, or situational.

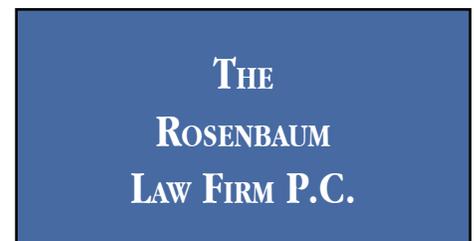
It’s a job. A real one. With consequences. The Handbook covers what fiduciaries actually are, and what they are not, because the confusion in the marketplace is staggering. A provider who treats fiduciary status casually is a lawsuit waiting to happen.

### **Why I Wrote the Handbook**

People often assume I wrote That 401(k) Plan Provider Handbook because I like hearing myself talk or because I enjoy the thrill of writing about top-heavy rules. The truth is simpler: the industry needs a guide written by someone who has lived through the chaos — someone who has seen the good, the bad, the ugly, and the profoundly illogical. The book is for the advisor who wants to elevate their practice. It’s for the TPA who wants fewer nightmares. It’s for the recordkeeper who wants clients who understand their role. It’s for the plan sponsor who wants to stop Googling terms during meetings. Most of all, it’s for anyone who wants fewer plan disasters and more plan successes.

### **January 6th: The Adventure Begins**

So on January 6th, That 401(k) Plan Provider Handbook hits Amazon in both Kindle and paperback. It’s the perfect holiday gift for anyone who loves ERISA, which means it’s not the perfect gift for anyone’s family, but for our industry, it’s long overdue. And if you enjoy the tales above, trust me: the book has plenty more. Because in the 401(k) business, every plan has a story, and I’ve collected them so you don’t have to live through them yourself.



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