

When Your 401(k) Financial Advisor May Have To Be Fired

By Ary Rosenbaum, Esq.

401(k) financial advisors are often handicapped by the fact that the nature of their position requires them to have an ERISA background when they don't. It's hard to fake an ERISA background when you don't and it's pretty impossible to fake. The problem is that many advisors make classic mistakes when it comes to their 401(k) clients as well as their potential clients. This article is about the mistakes 401(k) financial advisors may make, and why they may have to get the ax.

Thinking they're irreplaceable

Aside from relatives dying, everyone is replaceable and a financial advisor who thinks they're irreplaceable for their plan sponsor clients are in for a rude surprise. The retirement plan business is highly competitive and there are so many advisors out there willing to replace the incumbent advisor. A 401(k) financial advisor who takes their plan sponsor client for granted will find themselves without that sponsor client because more plan sponsors are becoming aware that there are many advisors out there that they can hire to replace the incumbent advisor. If you feel that your current advisor is taking advantage of you, a pink slip should be in the future.

Not being in communication with the client.

I have a saying: "I needed you, you weren't there, I don't need you anymore." A 401(k) financial advisor who is not in constant communication with their client bears the risk that they will be forgotten and replaced. In the old days before fidu-

ciary responsibility became a concept that plan sponsors understood, many financial advisors never communicated with the clients but still collected a fee. I will never forget the broker on a medical practice plan who was getting 60 basis points on a \$14 million plan but never reviewed the plan with the client annually. Any financial advisor who doesn't communicate with their client at least semi-annually is



a "milk carton advisor" because they are missing and should be placed on a milk carton. Thanks to the current nature of the business, a financial advisor who isn't in communication with their clients is a financial advisor who is likely to be replaced.

Not referring to the right TPAs

Aside from high fees and inattentiveness, a major reason why 401(k) financial advisors get fired is that they referred the wrong third-party administrator (TPA). Many years ago, I worked for a TPA that took over a 401(k) plan of an architecture firm. The human resources director didn't like us from the get-go because we didn't provide the level of service that she was accustomed to, the previous TPA did some of her work. So when there was an opening, she got us fired and she got the advisor who referred us fired. In the role of a 401(k) financial advisor, the advisor is relied on by the plan sponsor to refer the TPA as well as serve as an ombudsman when things go wrong. Since people are passive-aggressive, so are plan sponsors. Any complaint they have with the TPA, they usually don't address with the TPA, and they address it to the advisor who referred that TPA in. So it's incumbent on the financial advisor to refer in a TPA that can do the job of assisting the plan sponsor in day-to-day administration without the headaches and at a reasonable price. Too many financial advisors only see a TPA as a holder for a price and don't understand that there is no price on good third-party administration. There are more things important than

price because the difference between a good TPA and a bad TPA is enough to get a financial advisor fired. In addition, a good TPA is also more effective in plan design than a bad TPA is and plan design can save plan sponsors money through more effec-

tive employer contributions that can help with their retirement savings and tax bill. If your current advisor referred you to the wrong TPA and it hurts your plan, their judgment is a little suspect and they may need to go.

Not understanding their role as 401(k) financial advisors.

A financial advisor with discretionary control over their client's assets, how they pick investments and their overall rate of return is really important. What many financial advisors don't understand is that picking investments and their rate of return doesn't mean much in helping their 401(k) plan sponsor clients. The reason that picking funds and a rate of return aren't as important with 401(k) plans is that most plans are participant-directed where participants choose their investments. Sure, it takes knowledge to select an investment lineup for a 401(k) plan, but there are thousands and thousands of funds out there that can be part of a well-selected 401(k) investment lineup. The real role of a 401(k) financial advisor is to minimize the liability exposure of the plan sponsor when it comes to the fiduciary process. The fiduciary process of a 401(k) plan that intends to comply with ERISA §404(c) is a prudent selection of plan investments and providing information to plan participants. So that means developing an investment policy statement (IPS), selecting and replacing funds based on that IPS, and providing information to plan participants to make informed investment elections. A participant-directed 401(k) plan doesn't need a superstar advisor who picks the mutual funds that produce the highest rate of return, you need a solid advisor who can help you manage the fiduciary process and minimize your liability.

Not understanding they need to rely on other plan providers.

They often say that no man is an island and neither is a 401(k) financial advisor. Unless they have the training, most plan advisors don't have ERISA/ retirement plan knowledge. They can't be expected to be ERISA experts, but many plan sponsors expect their advisors to be one. I often use the line from the movie Back to School where Rodney Dangerfield says if you want to be thin, surround yourself with fat people. So



I often say that a financial advisor needs to surround themselves with ERISA experts if they want to look like they are ERISA experts. A financial advisor needs to work and network with TPAs and ERISA attorneys who can help out and provide free advice to effectively manage their client base. For the past 15 years, my ERISA practice has always offered free advice to financial advisors who need help with their clients because I always believe that the retirement plan business is relationship-driven and helping advisors out makes sense in the long run. You need a financial advisor who isn't afraid to rely on other providers so they didn't give you the wrong advice.

Not engaging plan participants

While many 401(k) financial advisors are dynamic in a meeting with their plan sponsor clients on a quarterly or semi-annual basis, many fall flat in a meeting with plan participants. I've been to a lot of enrollment/ investment education meetings that resembled funerals. Too many plan advisors either give short shrift to educating participants or they can't effectively communicate with them. The problem is that educating plan participants or giving them financial advice is an important component of being a financial advisor. Investment education and/or advice must be given to plan participants as a fundamental part of trying to achieve ERISA §404(c) liability protection for losses sustained by participants making their investments. You need the advisors to educate you to minimize your liability as a plan sponsor. In addition to liability protection, effectively commu-

nunicating with plan participants will also increase participation in the deferral component of the plan. Plan participation increases are a great metric to show that an advisor is doing a great job in helping manage the fiduciary process of the plan. One problem for many advisors is that they don't effectively communicate with plan sponsors. They don't understand that communication is all about connection. When talking to plan participants, they are in the connection business. So that means that the Wall Street Journal discussion that they give financial writers or plan sponsors to impress them, isn't going to do much with rank-and-file employees who usually

have very little background when it comes to financial matters. Financial advisors who can engage plan participants will go a long way toward being retained by you.

Being too expensive

Again, there are so many good financial advisors out there, and if your incumbent advisor is charging a far excessive fee when compared to the competition, it's their time to go. Since fee disclosure went live in 2012, fees have gone down. The days when advisors could collect 100 basis points (1.0%) annually for 401(k) management are long gone. Just remember, you don't have to pick the cheapest advisor out there, but the fees being charged must be reasonable.

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