

The Good, the Bad, and the Fiduciary: An Action Plan for 401(k) Plan Sponsors

By Ary Rosenbaum, Esq.

Every 401(k) plan sponsor eventually finds themselves standing in the middle of a dusty town, staring down problems they didn't create but are now obligated to fix. Running a retirement plan is a lot like surviving the world of Sergio Leone's *Man With No Name* trilogy: the rules are unclear, the characters are unpredictable, and one small mistake can cause the whole town to erupt in chaos. The nameless drifter, calm, methodical, unfazed by danger, survives because he understands one universal truth: you can't control the world, but you can control your actions. For plan sponsors, that's the heart of fiduciary responsibility. You can't control volatile markets, employee choices, or the next regulatory twist from the Department of Labor. But you can build an action plan that prevents avoidable problems, eliminates unnecessary risk, and keeps your plan on solid footing. This is your 401(k) action plan through the dusty lens of *The Good, the Bad, and the Ugly*, and its earlier cousins. If the *Man With No Name* had to run a retirement plan instead of outwitting bounty hunters, this is the play-book he'd carry under that poncho.

I. A Fistful of Dollars: Cleaning Up the Town (Plan Governance)

In *A Fistful of Dollars*, the *Man With No Name* enters a lawless town divided by two rival families. Nobody knows who's running things, even though everyone claims authority. That's what too many 401(k) plans look like: unclear roles, outdated processes, and no one truly in charge.

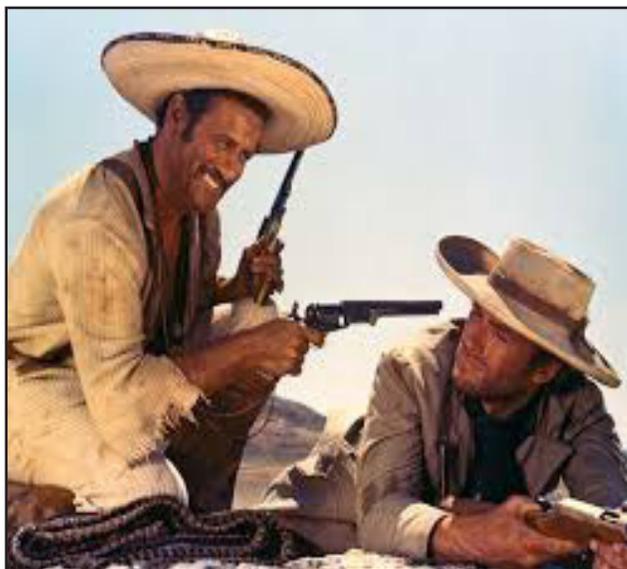
Action Step 1: Establish Clear Governance

Plan sponsors often rely on third-party administrators, advisors, or payroll providers, but the named fiduciary is still the one wearing the badge. You need: a writ-

ten fiduciary charter; defined roles and responsibilities; a documented review schedule; and minutes for every committee meeting. Without governance, you're the Rojo family firing randomly into the air—making noise, but not running anything.

Action Step 2: Review Your Plan Document

Your plan document is your dusty frontier law book. It governs eligibility, contributions, loans, QDROs, and everything in between. Yet it's the most ignored document



a company owns. Ask yourself: When was it last restated or amended? Do your operations match the document? Are you relying on "tribal knowledge" instead of written rules? A mismatch between plan terms and plan operations is the quickest way to turn your quiet frontier town into a gunfight.

Action Step 3: Evaluate Payroll Integration

Payroll errors are the gunshot you never hear until it's too late. Eligibility miscalculations, incorrect compensation, or missed deferrals are the modern equivalent of the Baxters setting the stable on fire. Fix this by: creating a payroll flow-

chart; testing compensation definitions; running annual audits of eligibility and hours-counting; and aligning pay codes with plan definitions. In Leone's universe, bad information gets people killed. In a 401(k), it results in corrective contributions, lost earnings, and angry employees. Clean it up before someone gets burned.

II. For a Few Dollars More: Working With the Right Partners (Service Providers)

The second film introduces Colonel Mortimer, competent, experienced, and essential. The *Man With No Name* may be good, but even he needs the right ally to bring down a ruthless criminal. Plan sponsors need their Mortimers.

Action Step 4: Benchmark Your Service Providers

Your recordkeeper, TPA, advisor, and auditors should be scrutinized regularly—not because they're incompetent, but because fees, technology, and services evolve. Benchmarking should include: fee comparisons; service-level assessments; cybersecurity controls and SOC reports; call center performance; participant

outcomes. If Mortimer hadn't vetted the *Man With No Name*, he would have been shot before the final duel. You shouldn't wait for a DOL investigation to discover that your provider wasn't a good fit.

Action Step 5: Understand Fee Reasonableness

Fee lawsuits are the modern 401(k) equivalent of bounty hunters. They appear suddenly, strike hard, and look for the weak plans. Sponsors must: Compare fees annually; Identify the fee structure (per-head, asset-based, hybrid); document the reasonableness analysis, and eliminate unnecessary or redundant services

Remember the lesson of For a Few Dollars More: you don't win by being the fastest; you win by being the most prepared.

III. The Good, the Bad and the Ugly: Finding the Buried Treasure (Investments)

The trilogy's final film revolves around buried gold—treasure hidden under confusion, misinformation, and competing agendas. If that doesn't sound like a 401(k) investment lineup, nothing will.

Action Step 6: Review the QDIA

Your QDIA isn't a one-time pick. Target-date funds require scrutiny: glide path suitability; fees; underlying fund structure; long-term performance; and whether it matches participant behavior. A QDIA that's wrong for your workforce is the same as digging in the wrong cemetery.

Action Step 7: Monitor the Investment Lineup

An IPS (Investment Policy Statement) is your treasure map—but only if you follow it. Plans must: conduct quarterly performance reviews; evaluate risk-adjusted returns; document watchlists and decisions, and remove chronic underperformers. When Blondie and Tuco argue over which direction to ride, they consult what they know and make decisions quickly. That's how sponsors must approach investments: based on the data, not emotion.

Action Step 8: Avoid "Ugly" Investment Options

Excessively expensive funds, proprietary restrictions, and opaque revenue-sharing structures are the Angel Eyes of the 401(k) universe: dangerous, deceptive, and only serving themselves. If a fund only benefits the provider, not the participants, shoot it from the lineup.

IV. The Ecstasy of Gold: Participant Outcomes and Education

At the end of The Good, the Bad and the Ugly, Tuco frantically circles the cemetery searching for the right grave. That's what participant behavior often looks like—wandering, guessing, panicking. Plan sponsors can't force employees to save, but they can create an environment that encourages it.

Action Step 9: Strengthen Auto-Features



Auto-enrollment and auto-escalation are your guiding compass. But they fail most often where payroll meets operations. Sponsors should: review default percentages; confirm eligibility dates; audit missed deferrals, and maintain written notices and disclosures. If Tuco had a clear map, he wouldn't have sprinted in circles. Participants need the same clarity.

Action Step 10: Improve Communication

Participants don't want to read 30-page disclosures written by lawyers who bill by the hour. They want: simple, plain-English explanations; videos or short infographics; clear timelines for enrollment, and examples of long-term compounding. Blondie didn't waste words. Plan sponsors shouldn't either. Clarity builds trust, and trust drives engagement.

V. Blowing Up the Bridge: Reducing Fiduciary Risk

In the finale of The Good, the Bad and the Ugly, Blondie and Tuco blow up a bridge, not out of chaos, but to eliminate the obstacle stopping them from reaching the gold. Sometimes sponsors need to eliminate obstacles, too.

Action Step 11: Keep a Litigation Mindset

Assume every decision may someday appear in a courtroom. That means: document everything; keep minutes; maintain checklists; follow your IPS; and review service agreements. A well-documented decision is your poncho, light, simple, and the difference between surviving and getting shot.

Action Step 12: Conduct Annual Plan Audits

You don't need a full independent audit unless your plan is large, but you should perform: operational compliance tests; loan reviews; hardship substantiation checks; fiduciary file cleanups; and eligi-

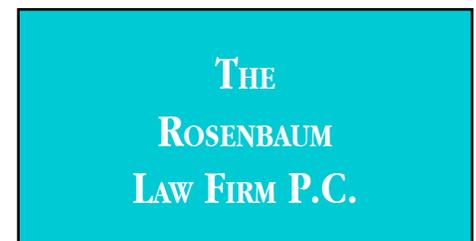
bility verification. If the Man With No Name checked every rifle before a duel, you can check your plan at least once a year.

VI. Riding Off Into the Sunset: The Sponsor's Long-Term Mission

The trilogy ends with the Man With No Name riding off alone, having restored order but never taking credit. That's the life of a good fiduciary. When the plan runs smoothly, nobody praises the sponsor. The only time people notice the fiduciary is when something goes wrong. You don't do this for applause. You do it because it's the right thing for your employees and your company. A good action plan protects participants. A great action plan protects you. A Leone-level action plan survives scrutiny, volatility, and the unexpected twist.

Final Word

Running a 401(k) plan will never feel glamorous. It's dusty work, filled with paperwork, compliance tests, and meetings that feel longer than Tuco's marathon through the cemetery. But with the right governance, the right partners, the right investment discipline, and the right communication, you can build a plan that's as resilient as the Man With No Name himself. Because in the end, there are three kinds of people in the 401(k) world: the good (prepared sponsors), the bad (unprepared sponsors), and the ugly (those who wait until a problem explodes). Choose wisely.



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