

# The Problem of Organizational Drift For 401(k) Plan Providers

By Ary Rosenbaum, Esq.

I enjoy business history and why certain businesses and organizations fail. I knew Sears and Blockbuster Video would fail, years ahead of time. I knew the synagogue where I was a member and where my son had his bris, would fail years before it did. Organizations that fail, don't fail immediately. Like what Red said in *The Shawshank Redemption*, all it takes is pressure and time. As a 401(k) plan provider, you can look at business and organizational failures, by avoiding the mistakes these failed 401(k) providers made.

## Avoid Organizational drift

Organizational drift, also known as strategic drift, is the problem where an organization, over time, deviates from its original intended path, often without realizing it. There are so many reasons that might be taking place. It could be due to a lack of adaptability to a changing environment. It could be an institutional culture that stops change and innovation in its tracks. It could be because of internal inertia, which I think is an arrogance to avoid change. Whatever is causing it, avoid it. The problem is too many organizations end up folding or have their business contract because they don't realize that they're going through this drift. Drift occurs because of the organization's bureaucracy or arrogance, but mainly because they don't adapt to a changing environment. Arrogant people still do well if market conditions allow them to.

## Adapting to a changing environment

In 1994, Viacom bought Blockbuster

Video for \$8.4 billion. It was done, beating out Barry Diller's QVC Network. By 2014, the last 300 corporate-owned stores closed. There is just one independent Blockbuster store in Bend, Oregon. I bought my first DVD player in 2000. In the box, was a small envelope for a company that was doing DVD rentals through the mail. There was an offer for free rentals and their selections were second to none. That company

industry is always changing. I started in 1998 when defined benefit plans were still a big thing and daily valued 401(k) plans were only starting to take off. Participants could make investments in elections, but any change was through paper or telephone. I was working for a Third-Party Administrator (TPA) and our website was still two years away, and even then, it only allowed you to see your balance, no trading, and no

distribution requests. A TPA who didn't know that trustee-directed 401(k) plans would go the way of 8 Track Tapes and didn't get involved in administering daily valued 401(k) plans didn't do well. The same happened to plan providers who lived and died by hiding fees. Fee disclosure regulations in 2012 were used to eliminate some of the creative fees and practices that some providers followed that previously led the 401(k) plan sponsor to think they were paying nothing for plan administration. These plan providers either folded up,



merged, or left the entire 401(k) business behind (quite a few insurance companies). This business is constantly changing. Technology, the stock market, legislation, and regulation will do that. What worked well in 1995 doesn't play today and what plays today won't play in 2045. You need to be ahead of the curve because if you're behind the curve, you'll never get to catch up.

was named Netflix. At one point, Blockbuster was offered to buy Netflix for \$50 million and turned it down. I think I knew in 2000, that Blockbuster was on borrowed time. They tried competing with Netflix with a mail rental service, but it was too late. Netflix could have repeated the same mistakes as Blockbuster. By 2007, they started a streaming service because they knew digital media and DVD rentals would go the way of VHS tape rentals and Blockbuster. Netflix co-founder Reed Hastings mentioned the transition to eventual streaming in the late 1990s. The 401(k) in-

Internal Inertia

## Internal Inertia

Businesses and organizations can become resistant to change, clinging to old ways of doing things even when they are no longer

effective. One of my favorite lines in motion picture history is Javier Bardem as Anton Chigurh: "If the rule you followed brought you to this, of what use was the rule?" That is something I wanted to say to every business or organizational leader that thought I was crazy and that they knew better than I did. For the past 15 years, I have mocked and belittled the Fakakta law firm I was a part of and the Managing Attorney. I have a chip on my shoulder the size of Brooklyn and when you work at a place and they put you down as a professional and treat you like some sort of business failure, you would probably have a chip on your shoulder too. One day, someone at the law firm told Lois, the Managing Attorney that the average age of a



partner was 63. Lois was shocked by the number but did nothing to change that. Lois was set in her ways and she thought what worked in 1990, still worked in 2010. When I realized I'd get no help from the law firm partners on existing clients to solicit for my ERISA practice, she thought it was my fault. However, a law firm that was an amalgamation of former solo practitioners led some of these partners to hold on to their client list like it was the secret formula of Coca-Cola. So I wanted to write articles and post on social media. Again, Lois was set in her ways and she thought clients were wined and dined or met on a golf course. She thought my ideas of social media were disrespectful of the legal profession as if I was the second coming of Saul Goodman. Now that law firm is less than half the size it was when I left. I go to their Long Island headquarters once a month because my allergist is in the same building and I never see anyone from that firm in the building. It must be a ghost town, Whatever I built with my law firm, it was built on these articles and social media. Too often, businesses and organizations are so set in their ways, that they can't fathom why they should ever change. I served as a Vice President of a synagogue for a year and what was frustrating was being surrounded by the same people who took the place

down from 750 families to 300. Whatever ideas they had to increase membership and raise money is stuff they had been doing for years and wasn't working for years. So many businesses and organizations fail because they fail to innovate, they rely on what made them a success in the first place. Again, what worked in 1998, doesn't work. I worked for a producing TPA and I knew that they couldn't survive in a world with fee disclosure. In 2007, I knew that our days of pocketing revenue sharing were going to end and an administrator there, was laughing at that suggestion behind my back. The fact is you have to change with the times or the times change you. Too often businesses and organizations have instituted what I call a culture of failure because they don't want to change to the point where they try to kill off any attempt at change. Those entities rarely survive because change is inevitable in business, it's an irresistible force.

#### **Poor Communication and Leadership**

Organizational drift can happen because of ineffective communication and a lack of clear leadership can lead to a disconnect between intended actions and actual outcomes, resulting in drift. Again, I was doomed at the law firm and I knew it. The problem was the law firm was rearranging the deck chairs on the Titanic and you

knew it. Rather than accept my fate, I tried drafting articles and harnessing attention on social media. The problem is that it took 3 levels of partnership in six months to approve one article. With my firm, I can write 26 articles in that time frame. My attempts at social media were thwarted by an advertising committee of one partner who never drew a dime of business but insisted that social media is barred because it's advertising and would be an issue under New York Attorney guidelines. The whole point of social media is that it's not advertising. Poor leadership and poor communication can cause organizational drift. The reason I started my practice is because I couldn't work for any-

one else. As an employee, communication would be so bad to employees, that I joked that one day the place would close and they wouldn't let us know. In addition, to poor communication to employees, plan providers who poorly communicate with their clients also drift away from their initial goals. I always say the main reason that most relationships failed in my lifetime was a lack of communication. Businesses fail because of a lack of communication with employees and clients.

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