

Misplaced Loyalty: When 401(k) Plan Sponsors Get It Wrong

By Ary Rosenbaum, Esq.

When I worked at a third party administration (TPA) firm many years ago, I learned some valuable lessons, some about ERISA and some about human nature. I wasn't exactly the favorite employee of the guy running the place. Let's call him Manny. Manny had a way of making himself look competent, not necessarily by doing good work, but by surrounding himself with people who made him look good by comparison. One day, channeling Rodney Dangerfield's line from *Back to School*, I quipped, "Manny must be competent, he surrounds himself with incompetents." Let's just say that didn't win me any points in the office popularity contest. Manny's real flaw wasn't just surrounding himself with mediocrity, it was believing that tenure equaled loyalty. He thought that just because someone had been around for a decade or two, it meant they were loyal soldiers. But what he failed to understand, and what I eventually learned to be true in this business, is that

many people stay because they don't have better options. Their longevity wasn't a badge of honor—it was a reflection of professional inertia. They weren't loyal; they were stuck. This isn't just a problem inside TPA firms. It's a phenomenon I see all the time with 401(k) plan sponsors. They confuse tenure with value, longevity with loyalty, and familiarity with competence. They get too comfortable, too trusting,

too complacent. And in the world of retirement plans, complacency is a liability.

Loyalty to the Wrong People

One of the most dangerous mistakes a plan sponsor can make is mistaking loyalty to a provider for fiduciary prudence. I've had conversations with plan sponsors who stayed with the same bundled provider

broker buddy from college. It's not loyalty to the insurance platform your predecessor signed up for in 2003. Your duty, and your loyalty, is to your participants and beneficiaries, period. And that means doing the hard thing when the time comes.

Complacency is a Plan Killer

One of the first questions I ask when I

review a plan is, "When was the last time you benchmarked your fees?" Often, the answer is: "We've never done it." Or, "It's been a while." Translation: "We're coasting, and we've convinced ourselves that everything is fine." Let me tell you, everything is rarely fine. Providers don't send you letters that say, "Dear plan sponsor, you're overpaying. We thought we'd let you know." They bank on your complacency. They build their margins on your inertia. They survive and thrive on your misplaced loyalty. One client I worked with



or advisor for 15 or 20 years, not because they were getting value, but because they didn't want to "hurt someone's feelings." They didn't want to change course because it felt disloyal. But being a fiduciary isn't about being nice. It's about being responsible. It's about doing what's best for the participants—not what's easiest for you. Let's be clear: fiduciary duty is not loyalty to the recordkeeper. It's not loyalty to your

hadn't changed their TPA or advisor in 18 years. Their platform was antiquated. Their investment menu was loaded with high-fee, actively managed funds with revenue sharing that would make a '90s broker blush. Their advisor hadn't attended a committee meeting in five years. When I brought up these facts, they told me, "But we like Jim. He's a good guy." Maybe Jim is a great guy. But he's a terrible advisor. And liking

someone doesn't fulfill your fiduciary obligations.

The Myth of the "One-Stop Shop"

Another tactic used by providers to embed themselves deep into the heart of a plan is the promise of convenience. "Why complicate things?" they ask. "We can handle everything: recordkeeping, administration, investments, compliance, and maybe even advisory services." They sell the idea that adding an independent advisor is redundant or even risky. Let me say this clearly: any provider that tells you that you don't need an advisor is waving a red flag. There's a reason bundled providers don't want you to have a third-party set of eyes on your plan. It's because they don't want anyone asking hard questions. They don't want to be held accountable. Having an independent ERISA attorney, an independent advisor, and a TPA who understands their lane isn't a luxury, it's best practice. That separation of roles and responsibilities creates checks and balances. It protects the plan sponsor from conflicts of interest and protects the participants from the status quo.

When the Loyalty Backfires

I can't tell you how many times I've had sponsors call me in a panic because something went wrong, and suddenly, the provider they thought was "family" ghosted them. The TPA didn't file a Form 5500 for three years. The advisor never disclosed their compensation structure. The recordkeeper misapplied forfeitures for a decade. When I dig in, the response I hear is always the same: "I thought we could trust them." But trust without verification isn't fiduciary oversight. It's wishful thinking. I had one client who trusted their recordkeeper implicitly. When the DOL came calling, they realized too late that all the compliance testing had been wrong for years. The plan failed ADP testing five out of the last seven years, but no one caught it because no one looked closely. Why didn't they look? Because they thought loyalty was enough.



The Loyalty That Matters

There's only one kind of loyalty that matters in the retirement plan space, and that's loyalty to your participants. You owe them a duty of care, prudence, and diligence. You owe them transparency, reasonable fees, and quality investments. You owe them a structure that benefits them, not one that's comfortable for you. So ask yourself: are you loyal to your participants or to your provider? Are you staying in a relationship because it's the right thing to do—or because it's the easy thing to do? One of the most important things a fiduciary can do is re-evaluate every relationship on a regular basis. This isn't about burning bridges, it's about making sure the bridge isn't crumbling under your feet. If your TPA isn't responsive, if your advisor isn't proactive, if your recordkeeper isn't transparent, you owe it to your participants to make a change.

Breaking the Habit

Loyalty becomes a habit. And like any habit, it's hard to break. But habits aren't a defense when the DOL comes knocking. Habitual thinking is how plans end up paying way too much for way too little. It's how plans end up with investment lineups that haven't been updated in a decade. It's how lawsuits happen. Fiduciary responsibility requires active engagement. It requires scrutiny. It requires asking tough questions, even of people you like and trust. Especially of people you like and trust. If you're

a plan sponsor, do a loyalty audit. List every vendor involved in your plan. Ask what value they bring. Ask when you last evaluated their performance. Ask when you last benchmarked their fees. If the answers don't make you feel confident, it's time to act.

The Bottom Line

The 401(k) industry, like any industry, has its share of people who coast, who rely on relationships and personal charm instead of performance. I've worked with some of them. I've worked for some of them. And I've learned that loyalty without merit is a trap. You have one job as a fiduciary: to act in the best interests of your participants. That might mean making some

uncomfortable decisions. That might mean replacing providers who've been with you for years. That might mean having difficult conversations. But fiduciary responsibility isn't about comfort, it's about duty. And when it comes to retirement plans, the only loyalty that matters is to the people counting on you to do the right thing. Don't let misplaced loyalty cost your participants their future. The time to act isn't when the problems become obvious, it's now. Because in the end, loyalty should be earned, not assumed. And it should never, ever stand in the way of doing what's right.

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**The Rosenbaum Law Firm P.C.
734 Franklin Avenue, Suite 302
Garden City, New York 11530
(516) 594-1557**

<http://www.therosenbaumlawfirm.com>