Avoid Mistakes Other Plan Providers Make

By Ary Rosenbaum, Esq.

Being a retirement plan provider is tough. I know because as an ERISA attorney, I am one and I play on TV. There are many mistakes to be made as a retirement plan provider, so the point is to try to avoid as many mistakes as possible. One way to learn from mistakes is learning the mistakes of what other plan providers have done in the past. I always say that I work on my own because I worked for others and saw the glaring mistakes they made in running their business as retirement plan providers. So this article is about mistakes to avoid that other plan providers have made and based on the 11 years I worked for other retirement plan providers.

The mistake of being arrogant

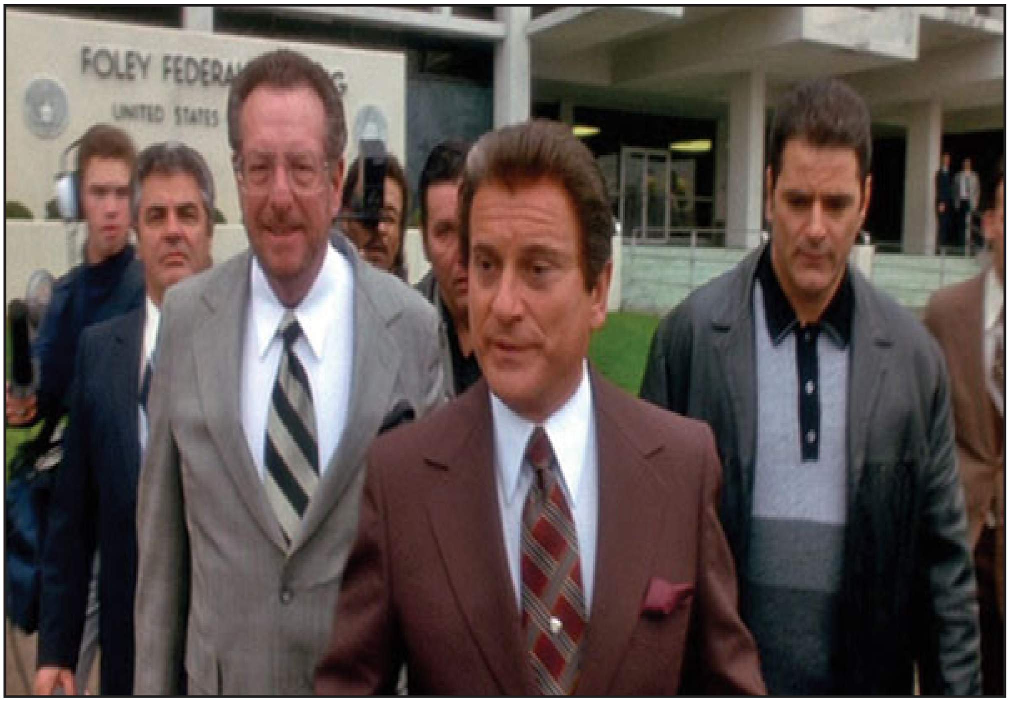
If there is one deadly mistake that a plan provider can make is being arrogant. I don't care how great your work product and service is, you are only perfect in your parents' eyes (unless you have parents like mine). Being arrogant because you're successful as a plan provider is a mistake because arrogance has a way of blinding you. When you're arrogant, you're blinded from the needs of your clients and the needs of your employees. You're also blinded by changes in the retirement plan business because you think you know everything. Being arrogant rubs people the wrong way and unhappy clients and employees may leave as a result. There is no room for arrogance because you're not doing the Lord's work.

The mistake of not sensing change

My son actually gets to surf at his summer camp and the point of surfing is being able to navigate the waves. There are waves in any business and the point of being a business that wants to remain successful is trying to navigate the waves of change in the industry. I worked with a paralegal at my very first job named Marge and she handed a piece of advice that I still carry today and that has helped me all these years: she said that there were third party administration (TPA) firms that went out of business when the Tax Reform Act of 1986 because they couldn't handle the changes that the '86 Act implemented. We saw this phenomenon when fee disclosure regulations were implemented in 2012, how many providers either went out of business, got bought out, merged, or got out of the business altogether? There were many plan providers that weren't transparent in the fees they charged because their fees were just absurdly high, so they couldn't function in an environment that required transparency. I knew a TPA firm once where I predicted they'd be out of business within 5 years because I though their method of hiding fees and pocketing revenue sharing wasn't going to last, they folded in 2 years. There have been many successful plan providers who couldn't make it with the changes in the retirement plan business. If the new fiduciary rule isn't gutted or replaced, you'll see many broker-dealers leave the retirement plan business or farm it out to firms that can handle the change in serving in a fiduciary capacity. People will say that fee disclosure and the new fiduciary rule were changes that no one could foresee; that's just a lame excuse. Anyone with a sense of the business and what was going on in the marketplace knew that fee disclosure was inevitable, that's why so many TPAs and financial advisors provided full fee transparency years before it was legally required. Same with the fiduciary rule, how many registered investment advisory firms launched ERISA §3(38) services because they knew that fiduciary duty was becoming a big issue thanks to all the litigation and regulations that were coming down the road?

The mistake of not taking care of employees

While there are a plethora of retirement plan providers out there, there isn't a plethora of well-trained, quality employees



especially in TPA administration. The reason for the lack of quality is lack of training of administrative staff, the lack of continued education, and the lack of oversight. So if a TPA or financial advisory practice finds good employees, it's good business sense to actually retain them. I've seen too many plan providers suffer because they allowed a brain drain of quality staff and the replacements they hired weren't adequate. It's like any professional sports team that loses some free agents and the free agents they sign aren't as good replacements. Any New York Mets fan will tell you that Vince Coleman couldn't replace Darryl Strawberry no matter what General Manager Frank Cashen thought. Plan providers need to understand that the way to keep quality employees is pay them a fair wage and provide good benefits. So there is a high cost of keeping good employees. I will never forget years ago when I recommended a high quality defined benefit and balance forward administrator. The problem was that the administrator made north of $75,000 and one of the TPA owners proudly proclaimed that he recently hired an actuary for less. There was a reason that the actuary was a bargain because he was no bargain. He wasn't very good and after he was caught sleeping on the job, he didn't last long. My advice is that if you're a plan provider and want to keep quality staff, have a little empathy. Look how your business and human resources decisions affect the morale of employees. Good quality employees aren't easily interchangeable; it's hard to replace quality employees who leave. It will say a lot about your practice if you have a full bench of long time, competent employees. Having a long terms staff is all about maintaining quality and keeping plan sponsor clients and other plan providers confident that you're still the same quality shop when they started that relationship with you in the first place.

The mistake of not being sorry

We're professionals and sometimes we make mistakes. I don't care how wonderful and perfect you think you are (remember my arrogance discussion), we all make mistakes. While the seriousness of the mistakes are important, what's also important is how we handle them. Whether it's a compliance test muffed by the TPA or a financial advisor not taking a fund off even though it's been on the change list, mistakes occur. Rather than accepting blame and trying to fix the problems they caused, I've seen plan providers do everything in their power to try to avoid culpability. Sometimes, the mistakes are costly to fix and sometimes they're not. Yet there are too many plan providers who won't say sorry for a mistake they made even though that's all what the plan sponsor wanted. The problem with not admitting when you're wrong is that it will likely exacerbate the situation when all the plan sponsor wants is some culpability. Apologizing doesn't cost anything except maybe a part of your ego.

The mistake of not playing nicely with other providers

Despite what they told you as kid, there isn't any magical chemical that when added to a swimming pool will reveal the presence of urine in the water by producing a colored cloud. So if you peed in the pool, there is no cloud that would follow you. However, if you're a plan provider and you don't treat other plan providers with respect and decency, your bad reputation will follow you. If you steal clients, tell lies about the competition, or don't cooperate with your successor as plan provider, people in the industry will know about it. It's a national business, but the retirement plan industry is close knit. So your bad reputation will follow you wherever you go and that will limit your options in growing your business. Do good work and treat other plan providers with the respect they deserve, people will hear about that too. Reputations can take a lifetime to build and they can be ruined in a minute of unprofessionalism. I won't forget visiting a brokerage office and being told that someone I knew who was the owner of a producing TPA wasn't allowed in the office because this owner stole business from a broker in that office who brought that TPA business. If you're a producing TPA and you steal business from advisors who bring you business, advisors will find out and not bring you business. If you're an advisor and you impugn the reputation of a competing plan provider, you will suffer as a result of an unsavory reputation. It's like kindergarten, play nice with others.

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