How a Financial Advisor Can Start Or Grow Their 401(k) Plan Book of Business

By Ary Rosenbaum, Esq.

For the financial advisor who is not in the 401(k) business and wants to be or the financial advisor who wants to dramatically increase their small book of business, this is the perfect time. With dramatic changes in the industry involving fee disclosure, the definition of fiduciary, and target date funds, financial advisors who are serious in doing a top notch job as a 401(k) advisor will find plenty of opportunity to develop and increase their book of business. As I always say, if you don't do it right, don't do it at all. A 401(k) advisor who will do it right by doing their job and making sure their clients do their job will find the 401(k) plan business very rewarding.

A large part of my practice as an ERISA attorney has been working with financial advisors and assisting them with their clients. I have further developed that practice by serving as counsel for a few registered investment advisory firms including a couple that are new to the 401(k) plan business. While this arrangement involves a flat fee, monthly retainer where my hourly fee is discounted by 60% (my old law firm's managing partner would flip), I believe that assisting financial advisors who are my clients and those who are not will help 401(k) plan sponsors handle their fiduciary responsibility more carefully, which can only benefit plan participants and help narrow the retirement crisis that our society is suffering as a whole.

Develop Your Niche: While Peter Gabriel proclaimed in the 1986 hit, Sledgehammer, that he would be anything you need, a financial advisor can't be everything for everybody. A financial advisor cannot handle 401(k) plans from $1 in assets to $1 billion in assets, As a financial advisor, you have to determine what your market is and which 401(k) plans you will target. Will you target larger plans or plans that are smaller in asset size? If you are a registered investment advisor, you will also have to determine what your fiduciary role will be, will you be a co-fiduciary, ERISA §3(21) or ERISA §3(38) fiduciary? If you are a broker, be mindful that the

Department of Labor is implementing rules that may define you as a fiduciary.

Attend 401(k) Rekon: There are many ways to start and develop your 401(k) practice and most of those ways involve the spending of money. 401(k) Rekon is not one of them. 401(k) Rekon is the brainchild of a North Carolina financial advisor named Ross Marino who decided that national retirement plan conferences where retirement plan providers would present were costly in both money and time to the financial advisors who attended these events. So Ross developed 401(k) Rekon as the way to bring these types of events to local markets. The events are free for advisors to attend where they get presentations from some of the large plan providers. These presentations are not sales gimmicks, the presentations provide relevant information for advisors who are new to the 401(k) business or simply wants to learn ways to build their practice. I was the first ERISA attorney to be a sponsor and speaker at these events and I have thoroughly enjoyed all of the presentations made by plan providers, including one or two that have been very critical of. The events are not about selling product, it's about teaching advisors how to build their 401(k) plan book of business. 401(k) Rekon has been a tremendous success in its short history, so there will be an event in your area soon. Check www.401krekon.com for further details.

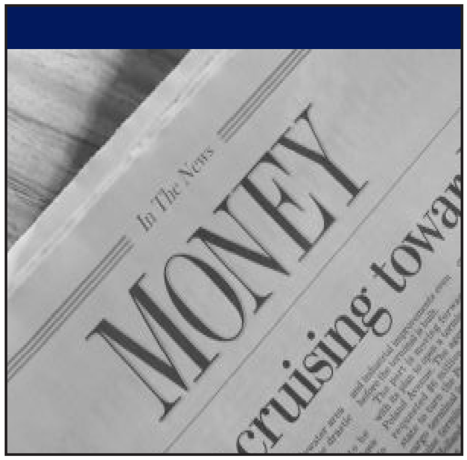
Surround Yourself With Smart 401(k) People: In the movie, Back To School, Rodney Dangerfield's character stated that if you wanted to look thin, you should surround yourself with fat people. For 401(k) advisors with limited retirement plan expertise, to look smart on 401(k) plans, surround yourself with smart 401(k) people. Being a financial advisor is difficult enough, so you aren't expected to become retirement plan experts. However, there are too many financial advisors who don't have the knowledge and don't care to have that knowledge which puts their clients at a disadvantage. As a financial advisor, you need to augment your services and show why your services have a value compared to the competition and the best way to do it is to rely on retirement plan consultants and ERISA attorneys for advice, consulting, and knowledge. While many financial advisors often rely on the expertise of the third party administration firm that they refer business to, but that advice is not independent. In my practice, I have always had an open door policy to advisors and I will always assist advisors like you without an immediate bill due. As far as retirement plan consultants, I am hard pressed to find anyone better than Sheree Tallerman of Plan Perfect Retirement. A former co-worker of mine at a TPA, Sheree has developed her firm as a provider neutral, infrastructural support to allow new 401(k) advisors to expand their practice to the retirement plan arena. Check www.planperfectretirement.com for further details. If you are unsure of what portfolios to use, consider Scott Pritchard of Advisors Access whose company can do it for you since they are a turnkey asset management provider. Check www.advisorsaccess.com for more information.

Don't Rely On One Plan Provider: Whether it's a plan provider like a TPA or a custodian, there is not one provider that is a perfect fit for each client. So instead of picking a plan provider that you are comfortable with, it's more important to find the right provider for each client. TPAs come in all shapes and sizes with their own strengths and weaknesses. It's important that the retirement plan needs of the client are met with the plan provider that is the best fit.

Avoid the Producing TPA: I always get in trouble for saying it, but my experience working for a producing TPA requires me to say it. Producing TPAs are firms that also have an advisory business. While people can argue about the value of producing TPAs, you have to realize that since they are in the 401(k) advisory business, they are also your competition. My old TPA had a terrible reputation in the industry for stealing clients from advisors who brought us business, so why refer your clients to the competition?

Develop an IPS: When it comes to participant directed 401(k) plans that intend to meet ERISA §404(c), advisors are more concentrated on picking a mutual fund lineup. The need for a financial advisor in an ERISA 404(c) plan is less about fund picking and more about assisting the plan sponsor in managing the fiduciary process. One of the most important roles in the fiduciary process is the development of an investment policy statement (IPS). The IPS sets the criteria for selecting and changing investments and is a necessary tool to limit a plan sponsor's liability under ERISA §404(c). It has become so important that the Department of Labor has been asking for the IPS when conducting plan audits. While an IPS is a necessary tool, it is not the second coming of the Magna Carta. Many mutual funds companies and plan providers have sample statements that you can tailor and that they would be willing to provide, even I have a sample if you need.

Provide Education to Participants: In addition to the IPS and fund selection, a necessary component of an advisor's job is to ensure that participants can get the education they need. Participants need to



be educated on the investment options in the plan in order for the plan sponsor to get ERISA §404(c) liability protection. If you feel that you can not offer enough education to plan participants, you should delegate that role to companies like RJ20 or Smart 401(k) that not only offer participant education, but also participant advice.

Find The Right Prospecting/Benchmarking Tools: Whether it's Brightscope, Fiduciary Benchmarks, Judy Diamond, Larkspur, 401(k) Exchange, Plan Tools, fi360, or some other company, you will need to find the best prospecting and benchmarking tools to prospect new clients and review current clients. What is the best tool out there? The one you feel most comfortable with. Get some demonstrations and see what you like. Check with mutual fund wholesalers and plan custodians who may give you access to these tools for free. As far as research engines, you should try out Matrix Financial Solutions' Retire Tool (k)it. Matrix has really been the one provider that has been an easy fit for both brokers and advisors, as well as a great educator through their Matrix U. events.

Harness The Power of Social Media: The biggest mistake I ever made when I started my own practice was hiring an old time public relations advisor. This advisor stressed the use of old time media like newspapers and magazines to build up my practice. To be honest, no one hired me because I was in the Long Island Business News or DailyFinance.com. My advisor had the chutzpah to tell me to take some time off when things were slow after I started. That advice cost him his job because I picked up a copy of "The New Rules of Marketing and PR: How to Use Social Media, Blogs, News Releases, Online Video, and Viral Marketing to Reach Buyers Directly", by David Meerman Scott. Through writing articles like this, the use of LinkedIn, Twitter, JDSupra, and blogging, I have been able to build my practice at very little cost. My appearances in the pages of The Wall Street Journal and marketwatch.com were actually because of my social media work, not the work of my former p.r. advisor. I know the problems you may have with compliance, but see what you can do.

Building any type of business isn't easy. It will take time. If you are dedicated to your clients and dedicated to the role of a 401(k) retirement plan advisor, you will succeed as long as you show a value to the service you provide. With so many changes to the retirement plan marketplace through regulations like fee disclosure which will have plan sponsors reconsider their current plan providers, it may be the opportunity you need to exploit and build a 401(k) advisory business.

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