



ACI Advisors Corner

How to Make your Client Care about Fiduciary Responsibility

By Tobi Cogswell
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Let's face it, CEO's are busy putting out fires. They are too busy with the challenges of the downturn in the economy to worry about their retirement plans, or themselves.

We know that if they have a retirement plan with participant directed investments, they may be personally liable for not only the choice of the recordkeeper but the actual participant choices as well. *They* may know that too, but do they know that with just a little organization and procedure development they can help abate that liability? Isn't that worth the price of a one-hour meeting? Isn't that worth time spent over one lunch?

Don't even talk to them about ERISA sections 404(a) and 404(c). *We* know that 404(a) sets forth the fiduciary rules that all plans must follow. *We* know that 404(c) deals with the personal liability for participant investment choices.

Ask them if they have a signed copy of their plan document and if they know where it is.

Ask them if they have a Plan Committee that has been appointed by the Board. Ask them if they know where the board resolution is appointing this committee.

Ask them if the Committee meets on a regular basis to review the performance of the plan assets and if they swap out or put funds on a 'watch' list as required. Ask them if these meetings are documented. Ask them if they know where these meeting notes are kept.

The idea is not to scare the heck out of them, but to get their attention. Make them want to know more, then talk to them about the Exclusive Benefit rule, Prudent Expert rule, the importance of administering the plan in accordance to its terms, etc. In the end it is about providing a chance for a better retirement for their employees through the development of prudent fiduciary process.

Tell them the story about it's not the participant who loses money and sues, it's the participant's ex-spouse, who thought they were getting half of a bigger number, that sues. It's God forbid the participant's widow, who thought the account balance was greater, that sues. And they will come looking for your client because they want their money and it's your client's fault.

Don't call us then, call us now. We can help your client acquire, organize and store data for Plan Committees. And Advisors. We have an encrypted portal based system that is accessible on demand from anywhere in the world and is web-based. That means no more binders stacked up and becoming obsolete in your clients' offices. We can also help your client comply with 404(c).

Fiduciary Compliance is an engagement separate from annual administration. Your client should think of it in those terms as well. This is protection that is separate from the benefits of the retirement plan.

For more information contact an ACI plan administrator or me.
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