

HICKS NOTES

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April 2015

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FIDUCIARY BATTLES HEATING UP

Over the past month or so, we have seen a variety of issues popping up regarding [fee disclosure regulations](#) and fiduciaries struggling to adequately perform their duties. There is increased litigation and settlements for excessive fee cases, client being marketed to by use of scare tactics, and administrators involved in conflicts of interest by not recommending advisors to offset their fees by third party payments paid to them.

As a Financial Professional, it is your job to help protect your 401(k) trustees from this liability by helping them work through the disclosure regulations, understanding fees, benchmarking returns and documenting this process. These clients are being hit on. If you don't do this, somebody else will.

The case of *Tibble v. Edison* is in front of the Supreme Court and has paved the way for excessive fee lawsuits. The plaintiffs claim they were given retail share classes when cheaper wholesale shares were available. Oral arguments were heard and a decision is forthcoming. [Click here](#) to review this decision.

Plans as small as 20 million have now become targets to these suits as the market has woken up to this issue. We will see more of these lawsuits after the Supreme Court rules on *Tibble*.

In addition, last month Ameriprise paid \$27.5 million dollars to plaintiffs, their own plan participants, to settle a similar fiduciary breach suit. While they admitted no wrong doing, the facts suggest the plaintiffs had a strong case. To read about this case, [click here](#).

We have also received calls and emails from our own clients questioning the pitches they are getting regarding their plans. Marketers are using scare tactics in an effort to perform a "mandatory review" of their plans. While we believe it is important to review each plan, we believe the existing planners should do it themselves or risk losing the business.

I had one prospect tell me he gets a call a week from people wanting to "review" his plan and save money for him and his participants. Competition is heating up, and those who are proactive will reap the benefits from this change.

Finally, I have seen our competition charging excess amounts for restatements, charging add on fees, and not offsetting their fees until questioned. Like all industries, there are good player and some not so good. Check out your TPA. Here is a [link](#) to help you with this process.

Research the type of people in our industry and what to look for. YELP them and find out what people are saying about the firm you are or thinking about using. We can't control the stock market, but you can control who your clients work with. Pick the best qualified at the best price and you will have taken care of a big part of this problem.

In conclusion, we have a variety of resources and links to help you. At [this link](#), the IRA provides internal controls to protect your retirement plan. Of course, we are always here to help or answer your questions. The best defense is a good offense!!