

## *When You're Serious...*

by *Bradley R. Newman, CFP®*

### Who Is Looking Out for Me?

Maybe the question should really be: “Is anybody looking out for me?” Sometimes it doesn’t feel like anyone is. It is unfortunate that, too often, you may be the only one looking out for you. Two recent pieces of litigation have shone a light on how pervasive the problem has really become.

Fidelity recently agreed to a 12 million dollar settlement for wrongdoing inside of its own 401(k) plan. Among other things, Fidelity was sued for overcharging its own employees administrative fees (to the tune of three times greater than customary fees), limiting the plan options to only Fidelity products (on which Fidelity charged yet another layer of internal fees), selecting only high-fee fund options for its employees to utilize and adding fund options with little or no track record in an attempt to boost these new funds’ asset base.

Likewise, JP Morgan has been sued for fraud and self-dealing in their management of almost 40 million dollars of assets held in Trust by one of the oldest churches in Indianapolis. JP Morgan is alleged to have put between 68% and 85% of the church’s assets into proprietary products where JP Morgan received internal fees in addition the fees they charged the church for managing the Trust accounts.

If the first question going through your mind is along the lines of “How comfortable am I with my situation, knowing that companies are taking advantage of churches and their own employees?”, the second question probably relates to “What are the key forewarnings that I should be looking for?”. Two key areas of focus are:

- How Is My Advisor Compensated?

Most obviously, are they beholden to you because you are paying them directly or are they beholden to someone else who is paying them to sell a product – or is it some combination of the two; if it is a combination, what is the ratio? Additionally, you need to drill down to find out what type of covert and imbedded compensation exists. It has often been said that the only way to ensure that your interests are being adequately represented is to pay somebody to represent them.

- What Is The Basis of Advice?

Quality of advice is not solely compensation driven. The real litmus test is how well the advice directly correlates to your specific situation or needs and to what extent the ultimate recommendation is the result of evaluating all options, not merely a fraction of the available options. If the recommendations are being made from a limited menu of choices that are all sub-standard, you are essentially being asked to choose between “bad” and “worse”; neither are good options.

### Audit Your Advisor

If any of the above makes you feel a little uneasy or squeamish, it might be time for an independent audit. While there will be an out of pocket cost, it will likely be less than the cost of not finding the types of issues referenced in the Fidelity and JP Morgan examples.

As you search for a firm to conduct the audit, be certain that: 1.) they are bound by a fiduciary standard, 2.) they are able to, and willing to, work on a purely fee-for-service basis and 3.) they understand that you are looking for a stand-alone engagement versus an invitation to present sales recommendations.

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