FIDUCIARY PRINCIPLES AND PROCESS

Patience and Prudence (Not the 50's Singers)

There are five general standards of conduct which govern a fiduciary's duties with respect to a plan.

They must be solely in the interest of the participants and beneficiaries. Benefits must be for individuals or plan participants who have a right to monitor the activities of the fiduciary and the investments of the plan.

They must be for the exclusive purpose of providing secure benefits to participants and their beneficiaries, or appropriate investment management to individuals.

They must be discharged in accordance with written instruments and documents which should include written investment objectives. Fiduciaries have the right to rely on professionals to assist them through this process.

Investment duties must be discharged with the care, skill, prudence and diligence of an expert familiar with such matters. A fiduciary must consider all the facts and circumstances he should know are relevant to the plan's investment objectives.

Investments must be diversified so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so. It is difficult to conceive of a situation where it would be clearly prudent not to minimize the risk of large losses.

When applying prudence principles under ANY statutory framework, the first rule to follow is to develop a process, document it and follow it like the due diligence that has to be employed in selecting money managers.

The prudent fiduciary examines many factors, including the composition of the portfolio with regard to diversification, liquidity and current return of the portfolio relative to the requirements of the plan, projected return relative to funding objectives, maturity, risk and safety factors, marketability, current and projected market conditions, economic and inflation considerations, and specific fund requirements, according to the controlling regulations. It must be made perfectly clear that "best judgment, belief, good faith, and best efforts" will not satisfy the prudence test.

Follow the Dollar

The Five Step Investment Decision Process: ("a 5-legged stool")

1. Ascertain client financial condition
2. Develop investment policy
3. Determine investment objectives and strategy
4. Select investments that meet strategy
5. Continually evaluate/rebalance

Our Partners:

It's not just the investment advisor that has a duty of loyalty to the client, because in today's marketplace, there are a host of other "helpers" that are involved in getting investment clients to advisors. While for years many investment management consultants have been affiliated with brokerage firms, over the past ten years there has been a growing trend among independents to form alliances with other service providers such as CPA firms, insurance firms, tax planners, and other financial related service providers in order that they can offer a "suite" of services to their clients.

THINK FAMILY OFFICE! Sometimes, as in the case with some CPA firms, the third party creates an independent advisory firm. Sometimes the investment advisor pays a "referral fee" to the other party.

Advisors have to do their homework on the prospective partner with the same fervor as performing due diligence on managers.

CPAs have a conflict with tax-matters clients
Lawyers have an ethical prohibition in fee-sharing according to State bars
Plan Administrators
Insurance Agents
Registration is an issue for everybody
Oversight is mandatory
CO-FIDUCIARY LIABILITY is the law