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From: Damon Rapozo [<mailto:damon.rapozo@guaranty.com>]

Sent: Thursday, May 03, 2007 3:55 PM

To: EBSA, E-ORI - EBSA

Subject: fee disclosure for 401(k) plans

I have a few ideas for your request, all from first hand experience. I have been speaking with Virgil Perez and would welcome any questions openly.

My current situation is that with my employer that has changed plan providers 3 times in the last 4 years. When I started the 401K program with my employer in 2005 we were with American Funds. Our fees seemed high and when I did my own research I found that we were in the wrong plan per American Funds. The plan we were in, a non-bundled plan, carried higher fund fees, and was designed for plans with 25 million in assets or greater.

Our plan assets at the time were around 6 million, over 4 times less than the minimum requested by American Funds. Again, this was not a bundled plan so we paid all TPA fees combined with a higher fund fee. We dropped American Funds and went with a company in Portland called Retirement Plan Services Corp in Portland, Oregon and they use Schwab to trade funds. The reason for this change is American Funds would not allow the employer to charge participants back the TPA fees. This change in providers was made in November of 2006 or so. In March of 2007, under our current provider, all participants were "charged back" fees from September of 2005 thru March of

2007 I think. I have requested an invoice explaining the charges, I asked for it to be broken down by provider since that time frame, 18 months, covers two different providers. This type of botched accounting practice that is done in a very vague manner needs to be disallowed and laws put in place to give better disclosure and explanation of the fees being charged, in this case TPA fees.

Some other disturbing items I have noticed:

During all of our provider changes (3) our TPA's remained the same which I found disturbing.

Plan Trustees should not be employee's of the same company

My opinion is that I have observed the trustee's fiduciary duty to have been breached on several occasions. I have yet to see the Trustees place the plan and participants first, above all. We changed providers because of the fact American Funds would not allow the employer to charge us back the fees.

The timing of that incident is also reflected by a plan document amendment in regards to fees being charged back to participants.

I believe there needs to be some guidelines in regards to the employer charging back the participants for TPA fees. I would start with a time period and a law that states in needs to be broken down per provider should a provider change be made mid-plan year. I think every time you receive a charge to your account you should get a detailed invoice, much like a monthly electric bill. I don't believe the employer should

be allowed to go back as far as they just did with us, 18 months, that is just poor accounting.

We have also failed the various tests every year for highly compensated employees, each year I place the maximum amount in my 401K or close to it and get a large sum of it back "after" I have completed my tax returns. I had to go back and amend my tax returns and that cost me \$295.00! This happens every year and it always is late in relation to the time frame of getting your taxes done. Nothing is being done to attract lower compensated employees into the plan to balance it out, no training, nothing.

I could go on for hours, please let me know if you have any questions.

Sincerely,

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