Who's Watching Your Retirement Plan While You Run Your Business?

By: **Dawn Feniello Bressingham**
President
Priority Pension Services, Inc. (AFI)

In view of recent market volatility, it is important that the most suitable investments are chosen for your retirement plan. This is the fiduciary responsibility of the business owner. Most clients focus on immediate returns and measure investment success based on immediate performance of the investments in their 401(k) plan. In fact, the most positive effect that an individual can have on the outcome and future balance of their retirement plan is tied to deferral percentage and not investment return.

It's becoming increasingly more difficult for plan sponsors to meet their fiduciary obligations, as well as manage their fund lineups. A fiduciary protection program can assist with the 401(k) plan investment line up as well as lessen the liability to the plan sponsor. Services under either a 3(21) or 3(38) fiduciary protection is available with most investment providers for a nominal cost or no cost at all depending on the assets in the plan. An outside fiduciary under Code Section 3(38), will take full authority to remove and replace funds without input or involvement on the part of the plan sponsor. The flexibility of this offering allows plan providers to accommodate the full-range of fiduciary and investment needs of plan sponsors and assigns fiduciary liability to the 3(38) fiduciary.

Many of my clients, with my recommendation have chosen to implement a 3(21) fiduciary program which I believe stands out above the rest. This a co fiduciary program that monitors the investments, alerts the advisor and client immediately if the investments are not performing and replaces the group of funds in the same asset category while keeping it all under coverage of the program. Depending on the size of the plan and the protection that is required, will determine whether a 3(21) or 3(38) is appropriate for your 401(k) plan.

The advisor should help to relieve the business owner of the burden of handling their 401(k) plan. As part of their advisory services, they should construct and monitor the investment lineup, document our investment process, create an Investment Policy Statement, and furnish the plan with detailed quarterly investment and performance reports. As well as work with plan providers and financial institutions to create quality, diversified lineups for their clients.

Whether you have a 3(21) which is a co fiduciary protection program or a 3(38) that offers more protection, you can reduce your liability as the fiduciary. Remember, your personal assets are at risk if you get sued. Why take this risk? In the market performance we had recently, the investments in your plan can have you set up to be liable especially if participants are unsatisfied with their returns. I can't stress enough how important it is to have certain guidelines in these 401(k) plan to protect you as the business owner. It is important to work with a retirement plan specialist who is familiar with these guidelines and can put all the provisions in the plan. You – the plan sponsor, the fiduciary of the plan must be protected!

Priority Pension Services, Inc (AFI)

370 N. Iowa Avenue, North Massapequa, NY 11758 • 516-584-2755 • *info@ppsafi.com*