



## **DENIAL... A NICE PLACE TO VISIT BUT YOU CAN'T LIVE THERE**

**By: Gina Migliore**  
VP and Chief Operating Officer  
Priority Pension Services, Inc (AFI)  
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Our daily life is full of challenges. Some challenges will be awesome. Others will be good. But some challenges will not be so good, and then others... well... they'll be just downright awful. No sugarcoating, just lousy, terrible things we don't want to do or deal with. But like my Mom always said, you have to take the good with the bad. That's life! C'est la vie!

Many people embrace challenges, and that's a terrific way to live. A go get em' approach, an *ain't no mountain high enough* kind of personality. That would work especially well as a Plan Sponsor, since they face many challenges when it comes to managing their plans. Doesn't matter how big or small their plans are, they all have the same duties and responsibilities.

Recently, it was reported in several articles and websites how the DOL successfully restored over \$1 billion to retirement plans, health plans and other welfare benefit plans in fiscal year 2017. Keep in mind that this dollar figure isn't comprised of only 4 or 5 big settlements on 4 or 5 big plans, oh no, no, no! On the contrary, it's the result of over 1,700 Employee Benefits Security Administration ("EBSA") investigations into big plans, small plans and everything in between. Not to mention that, in addition to the monetary settlements, 113 people, including plan officials, corporate officers and service providers (all fiduciaries by the way!) were indicted because of these investigations.

Just from the headlines alone, it is abundantly clear that Plan Sponsors & Fiduciaries must be informed, be proactive and be prepared. They must embrace the challenges that come with being fiduciaries, and they must do everything possible to fulfill their duties to the absolute best of their ability. It is vital that fiduciaries understand their duties and responsibilities as defined by the DOL, IRS and ERISA law.

Even more importantly and bluntly (sorry, since there's no other easy way of saying it), Plan Sponsors & other fiduciaries cannot live in denial any longer. They must realize, accept and understand that they could be the subject of an EBSA investigation themselves or perhaps be on the wrong end of a 401(k) lawsuit. They too could be subjected to fines and penalties from either scenario. As ERISA fiduciaries, they are personally liable and while they can reduce their fiduciary liability, it can never be totally eliminated.

As always, I encourage all Plan Sponsors and fiduciaries out there to ask questions and seek assistance from their providers. BUT, and this is an important BUT, seek your own answers from other sources. Even though your providers are supposed to be working in your best interest, let's be realistic. They're not going to tell you that your fees are too high, your plan is overpriced or that the service would be better someplace else. What they will tell you is what I hear all the time, your all good, which would be OK if you had an independent plan analysis performed by an outside party (which is one your duties by the way, see the IRS website). Providers may tell you that you've even had a plan review, but what you need to ask is by who?

A provider can't review their own plan. They can't benchmark a plan themselves. True benchmarking is shopping your plan to other providers. Your provider simply can't do that! Your adviser can and should, and document it for your files. I hate to hear when plan sponsors are told that their provider benchmarked their plan. It's very common with bundled providers. They load a plan with proprietary investments and claim to benchmark them, against more of their own proprietary investments. Crazy right, but it happens all the time.

For anyone connected to me, they know I'm always plugging our free fiduciary lunch & learn sessions and these are just some of the many, many reasons why. And I'm certainly going to do it again here. I strongly encourage any Plan Sponsors & fiduciaries reading this to join us at one of our upcoming events. There is truly no obligation and any attendance can be included in your fiduciary binders as proof of your ongoing commitment to improve the retirement outcomes of your employees.

Priority Pension Services, Inc. (AFI) is a full-service employee benefits consulting, actuarial and third-party administration (TPA) firm. We are always happy to help in any way we can. Please feel free to contact me at 516-584-2755 or [ginam@ppsafi.com](mailto:ginam@ppsafi.com) with any questions or if you would like more information on one of our upcoming educational sessions.



370 N. Iowa Avenue, North Massapequa, NY 11758 • 516-584-2755 • [info@ppsafi.com](mailto:info@ppsafi.com)

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