

Risk Management for RIAs

- Fiduciary liability
 - investment advice
 - investment management
- Prohibited transactions
- Negligence
- Breach of contract

Fiduciary Breach

Fiduciary breaches primarily occur where:

- the advice is not prudent:
 - generally accepted investment theories
 - prevailing investment industry practices
 - diversification
 - documentation

... and where ...

Fiduciary Breach

- the advice and/or performance is not consistent with the governing documents:
 - service agreement
 - investment policy statement

Service Agreement

Important issues for service agreement:

- What do you do and what don't you do?
 - Company stock
 - Participant services
- When are you a fiduciary? When not?
 - Prudence and monitoring
 - Exculpatory clauses
- Co-fiduciary liability

The Fiduciary Process

- Determine the needs of the plan and participants
- Select appropriate asset classes
- Determine investment criteria
- Document investment policy statement (IPS)
- Apply IPS criteria to select investments
- Monitor regularly

Negligence

Potential issues:

- Referral to other service providers
- Provider searches

Prohibited Transactions

- 406(a) prohibited transactions
- 406(b) prohibited transactions
- Conflicts of interest

Words of Advice

- Expanding responsibility
- Document!
- Lawsuits are typically about what wasn't done.
- The fiduciary promise.



Helping Pension Fiduciaries Measure UpSM

Managing Risk with Improved Documentation and Business Practices

fi360 National Conference

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Self-Identify as a Fiduciary

- **Life is Not a Beach**
- **Fiduciary Focus is Work**



Process is Everything

- **Have a Good Plan**
- **Identify the Tools You Need (Including Skill Set)**



Space Aliens in the Office

- **Nobody Likes “Extra Work” Attached to Compliance**
- **Must Motivate Others to Help You Comply**



My Brother's Keeper

- **Do Your Homework**
- **Get Independent Feedback**



Spinach and No Dessert

- **Asymmetric Payoff**
- **Flawed Reward System**

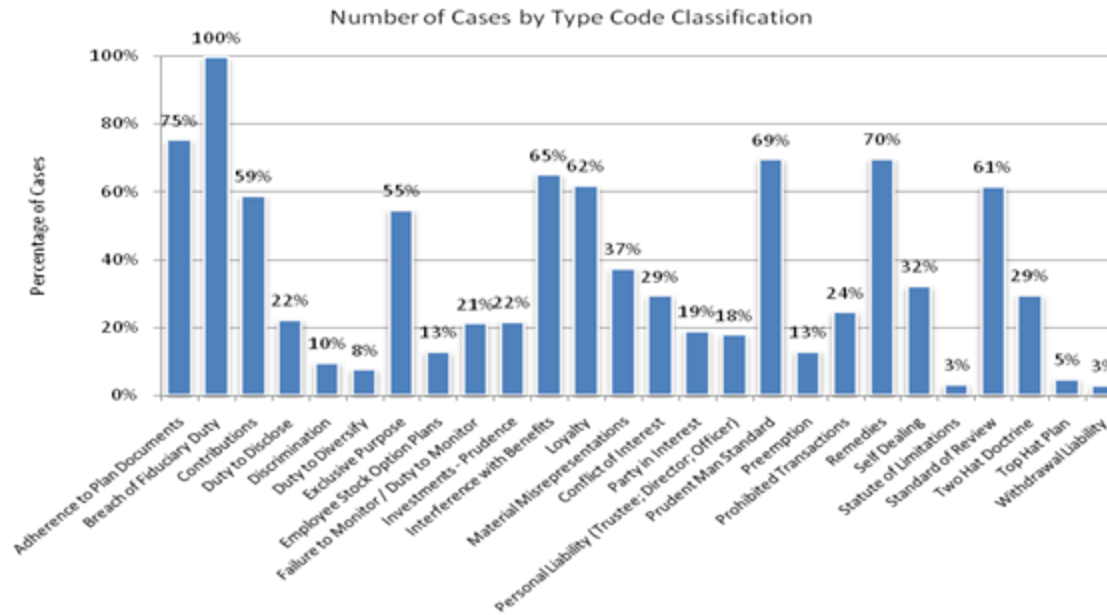


Bad Behavior Has Consequences

- **Don't Provoke the Lion**
- **Make Best Practices Your Goal**
- **Litigation is Soaring**



Recent Pension Lawsuits



Source: www.PensionLitigationData.com

Systematic Approach

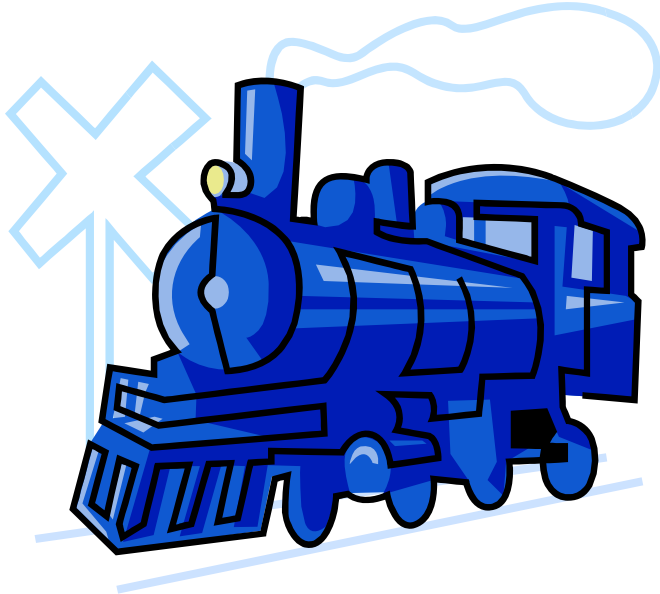
- **"In ev'ry job that
must be done
There is an element
of fun
You find the fun and
snap!
The job's a game**

- **And ev'ry task you
undertake
Becomes a piece of
cake
A lark! A spree!
It's very clear to
me"**



Source: "A Spoonful of Sugar"
by Richard M. Sherman and
Robert B. Sherman

I Think I Can...



and So You Can...

Biographical Information

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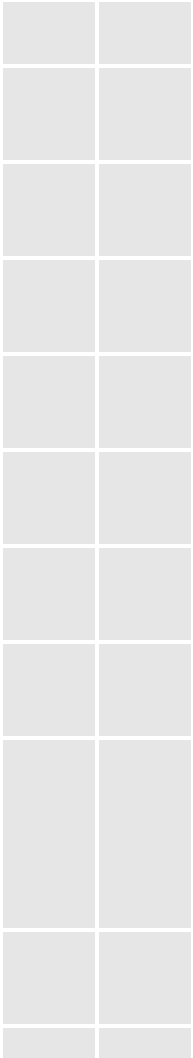


Susan M. Mangiero is President of Pension Governance, Incorporated. Providing research, analysis and training in the areas of fiduciary investment risks, valuation, fees, suitability, asset allocation and performance, she works with pension trustees, board members, C-level decision-makers and the attorneys, money managers and consultants working with plan sponsors. With over twenty years of experience, including work on four trading desks, Dr. Mangiero is the author of the pension risk blog, www.pensionriskmatters.com, creator of www.pensiongovernance.com and co-creator of www.pensionlitigationdata.com.

A Chartered Financial Analyst and Accredited Valuation Analyst, she is certified by the Global Association of Risk Professionals as a Financial Risk Manager and is a member of their exam committee. In August 2006, she earned the designation of Accredited Investment Fiduciary Analyst. She holds a Ph.D. in finance (minor in math), an MBA in finance, an M.A. in economics and a B.A. in economics and has done post-graduate computational finance work at Carnegie Mellon University.

She has written extensively about risk management and valuation for publications such as *Investment Lawyer*, *RISK*, *Risk Review*, *Valuation Strategies* and the *Expert Evidence Report*. Her book entitled *Risk Management for Pensions, Endowments and Foundations* for John Wiley & Sons, Inc. (2005) addresses financial risk management issues for investment fiduciaries. Dr. Mangiero can be reached by calling 203-261-5519 or by sending an email to PG-Info@pensiongovernance.com.

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