



# The Swordlin

Your News Source on Retirement Plans

## Quarterly

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## The Newest "F" Word:

The word fiduciary can strike fear in the bravest plan sponsor or retirement plan committee member. Fiduciary is even more ominous if it is paired with the word liability. Fiduciary liability is especially frightening in light of all the publicity surrounding the mutual fund scandal and other pension plan related litigation.

Are you a fiduciary of your retirement plan? Do you know what your responsibilities and liabilities include? If you are not certain, maybe the following information will help.

There are four rules or requirements you must follow in your role as fiduciary:

1. **The Exclusive Benefit Rule** ensures that you operate the plan solely for the benefit of the participants.
2. **The Prudent Man Rule** says plan fiduciaries must demonstrate the care, skill and diligence that a reasonably prudent person would demonstrate regarding matters related to the plan. Basically, this means if

you are not a retirement plan expert and/or a qualified investment advisor, you need to find someone who is.



3. **The Diversification Requirement** directs the plan fiduciary to diversify plan investments unless an exception exists or where it would not be prudent to do so. Although a written investment policy for your plan is not required, it is strongly recommended. With the assistance of a qualified investment advisor, you can develop this policy to define an investment strategy to suit the needs and investment goals of your participants. You must continually monitor

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## Dorn's Corner



This quarter I want to talk about *systems thinking*. Most of what is discussed here comes from Peter Senge's book, *The Fifth Discipline*.

In his book, Senge defines systems thinking as the "fifth discipline." The other four are:

1. Personal mastery
2. Mental models
3. Shared vision
4. Team learning

Practicing these disciplines in an organization leads to a "learning organization."

To begin the process of becoming a learning organization, individuals must first understand and practice "generative learning." Our common definition of learning is to take in information. However, in generative learning we recreate ourselves. To generate means to bring into existence, and generative learning means to learn in ways that encourage new and creative ways of thinking. Senge says it is learning that enhances

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# Client of the Quarter

## Place Properties

We are pleased to present Place Properties as our Client of the Quarter. Place has sponsored a 401(k) plan for several years and just recently became our client.

Place Properties is one of the few full-service companies dedicated to providing student housing and related facilities to the higher education market. Since 1998, Place has been financing, developing and managing student housing at colleges and universities across the country.

Place Properties is a privately-held company focused on developing public-private partnerships with colleges and universities.

Expanding enrollments and increased economic pressures have challenged schools to seek alternative methods of financing and developing capital projects such as student housing. This public-private partnership enables school administrators to focus on the complex business of day-to-day operations while Place focuses on the business of student housing development.

Place Management Group (PMG), the management division of Place Properties, handles the day-to-day management and maintenance of its properties. Appearance of the facility and timely response to residents' maintenance requests are two factors that

not only attract residents, but keep them. The Place Management team maintains all facilities at the highest levels of operational codes, including OSHA, BOCA, NEC and IREM.

PMG further serves its residents by offering the convenience of online reservations and housing solutions. Through the use of WebRoomz, students can go online to select their room and choose their own roommates.

Place believes that their people make the difference. They strive to exceed the expectations of all those with whom they do business. Place Properties is dedicated to delivering projects to their partners *on time, under budget, with Place quality and no surprises!*

To learn more, visit [www.placeproperties.com](http://www.placeproperties.com). ■



Place Properties

### Our Mission

Place Properties' mission is to provide comprehensive solutions for development, financing, construction, and facilities management on behalf of educational institutions and their students.

### Our Values

Place Properties' core values are mutual trust, respect, and dedication to being the best in our industry.

### Our Commitment

We earn and keep our customers' trust and respect. ■

## The Newest "F" Word: Fiduciary

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your plan to ensure your investment strategy is working.

4. **The Compliance Requirement** directs the plan fiduciary to operate the plan in accordance with the document. A fiduciary not familiar with current pension laws can expose himself and his company to costly penalties. Third party administrators specialize in keeping the plan in compliance with the document and the law.

Although there are only these four basic rules and requirements for a fiduciary, the responsibility is enormous. We are sure you are aware of all the negative press related to plan fiduciaries over the last couple of years. The media generally reports only the bad news, but cases such as Enron illustrate just how much a fiduciary can suffer.

*It is important to remember that responsibility is the cure for liability.*

As a Third Party Administrator, we can give you an objective perspective regarding each of these rules and requirements. Give us a call if we can help. ■

# What's Happenin'

In May, Dee Robbins attended her high school reunion in Kingsport, TN and in July Becky McDougal attended her reunion in Jacksonville, FL. They both renewed many old acquaintances.

Randy Pflueger's son Bryon is serving in Iraq. Our employees donated and sent food and many other items for Bryon to share with his whole unit. They all enjoyed going through the packages and were very appreciative.

Jim Callea received donations from many of us for the Mustard Seed Communities charity. Jim thanked us all by bringing in home-made brownies.

Congratulations to Connie Woodmansee's daughter Summer on her recent marriage to Stephen Williams.

For the 6th year, we closed the office for our traditional Fun Day on May 21st. This year we gathered at Jillian's for lunch, divided up into teams and played competitive games. We all had lots of fun. Pictures of Fun Day can be viewed at [www.Swerdlin.net](http://www.Swerdlin.net).

We celebrated "Bring Your Dog to Work Day" in June. Eight of our four-footed friends visited for the day.

Anniversaries we are celebrating this quarter: Melissa Spencer 12 years; Glenda Devechio 9 years; Adam Pozek and Stephanie Davis 8 years; Kathy Latour 6 years; Aaron Cox and Chastity McCrary 2 years; Michele Gresham, Katie Myers and Patti Williams 1 year.

Adam Pozek was busy this quarter. He spoke on Plan Governance at the AICPA

Employee Benefits Conference in Orlando in May, an ASPA 5500 workshop in June, and on Participant Distributions at the ASPA Summer Conference in mid-July in San Francisco.

We also want to congratulate Adam on receiving his Qualified 401(k) Administrator (QKA) designation in August.

Glenda Devechio and Cynthia Navan attended a 2-day Cafeteria Plan Seminar in July. Their attendance at an Advanced Cafeteria Compliance Seminar in Naples, Florida was curtailed by Hurricane Charley. They returned safely after a long drive.

Dorn Swerdlin, Joanne Swerdlin, Susan Petrirena and Connie Woodmansee were invited to present ESOP Jeopardy at the ESOP Communications Conference in Chicago on July 27. Dorn reprised his role as Alex Trebek while Joanne kept score and Susan and Connie served as judges. ■



## Dog Day 2004

**From left to right:** *Kneeling* Mary Butina and Cha-Cha, Julie Isom and Pepper. *Seated* Glenda Devechio and Savannah, Stephanie Davis and Murphy, Joanne Swerdlin and Dixie. *Standing* Emily Spencer and Loki, Nancy McMurtrie and Spanky, Laura O'Connor and Daisy.

## FAQ

**Q.** What happens if our Plan Document and Summary Plan Description (SPD) don't agree?

**A.** Generally, whichever provision is more generous to the participant is used. Many recent court cases have supported this interpretation. This is why it is so important to ensure that the plan document and SPD are consistent.

**Q.** We are considering making some changes to our plan. When do we have to tell our participants?

**A.** Plan amendments must be disclosed to participants in a Summary of Material Modification (SMM) within 210 days after the close of the plan year in which the amendment is effective. However, if a participant asks about potential changes to the plan, and you are seriously considering or have decided to make any changes, you are obligated to disclose this information at that time.

**Q.** Does the recent legalization of same-sex marriages in Massachusetts affect our employee benefit plans?

**A.** No. The Federal Defense of Marriage Act (DOMA), enacted in 1996, defines marriage as being between one man and one woman and defines a spouse as one of the opposite sex. Since Federal law governs most aspects of employee benefit plans, legalization of same-sex marriages by any state or local government has little impact on qualified retirement plans.

# Plant a Seed and Watch It Grow!

One of the ways to increase participation in a cafeteria plan is to offer employees “seed” money.

## What is “seed” money?

Seed money is contributed to a cafeteria plan on behalf of all employees eligible to participate. This tax-deductible money is funded by the employer and is tax sheltered to the employee. To gain a better understanding of seed money, let’s look at an example:

- Mr. Good, President of Widget’s, Inc. wants to offer employees a cafeteria plan.
- He is concerned that participation will be low.
- He decides to contribute \$5.00 per month for each employee to Widget’s cafeteria plan.
- Mr. Good’s employees are happy they will be receiving \$60.00 of tax-free money during the year to pay for their medical care.

Throughout the year, employees are reimbursed for deductible expenses and realize how easy it is to participate in a cafeteria plan. However, many of them run out of seed money and have to pay for medical expenses with after-tax dollars. Realizing what a great benefit a cafeteria plan

provides encourages them to participate by contributing their own money next year.



## Advantages of seed money:

- Provides for 100% participation in the plan
- Provides a tax deduction for the employer
- Increases employee satisfaction
- Helps employees gain a better understanding of how cafeteria plans work
- Encourages employees to make their own contributions to the plan in the future

If this interests you, but you don't want to fund your cafeteria plan every year, you could offer this incentive just for the first year. We can help you design a plan to accommodate this feature.

To learn more about seed money and other ways to increase participation in cafeteria plans, please call Lee Swerdlin or Stephanie Davis. ■

## ¿Habra Español?

We do! Beginning on September 1, 2004, Swerdlin & Company offers our Spanish Voice Response Unit (VRU). If you are one of our DayPak clients, your Spanish-speaking participants will be able to call 888-DayPak2 and listen to their account information in Spanish. The Spanish VRU will offer all of the services that our current VRU offers. Additionally, if your participant has a question, he or she can opt out of the automated system and speak to one of our Spanish-speaking customer service representatives.

## Look For Us At . . .

17th Annual Benefits Management Forum & Expo  
*September 19 - 22*

Conference of Consulting Actuaries Annual Conference  
*October 17 - 23*

ASPA Annual Conference  
*October 24 - 27*

The ESOP Association Annual Fall Conference  
*November 4 - 5*

WEB Presidents’ Meeting  
*November 6th*

## FAQ

*continued from page 3*

It is important to note, however, that Federal regulations do not override state insurance laws. If you have any employees affected by the Massachusetts ruling, you may want to discuss any questions with your insurance company or your attorney. ■

## Instant Information

Did you know Swerdlin & Company offers a plan sponsor website? This site can be used by the plan sponsor and other authorized personnel to view information about their retirement plan(s). They can view a summary of plan assets as well as individual account balances on-line. They can also generate real-time reports or review copies of reports previously generated for their plan or



participants. This service is primarily used by participants in our DayPak plans but is available to all of our clients. If you are interested in learning more about our Plan

Sponsor Web, please contact your Client Manager or Lee Swerdlin. ■



# Where Did That Email Come From?

*This is the first of several articles by our IT Manager, Randy Pflueger. We hope you will find this series helpful and interesting.*

S P A M undermines the integrity of the

Internet and our usage of email. What do you know about SPAM? Have you ever asked these questions:

- What is SPAM?
- Why do I receive SPAM while others do not?
- How is SPAM generated?
- Where does it come from?
- Why do people send SPAM?
- Can I stop it?

SPAM is generally defined as *“unsolicited commercial email advertising a product via mass marketing from a sender you do not know.”* These products run the gamut from refinancing your home to materials generally considered to be indecent.

There are many different triggers for getting on a SPAMMERS mailing list. Once you get on it, you are there to stay. The only real way to get off the list is to change your email address. If you have ever registered online for anything, you are exposing yourself to receiving SPAM. The reason for this is very

simple. When you register online, and give an email address, you are generally agreeing to allow that entity to share your information with their marketing “partners.” These partners could be legitimate companies, but they want to advertise their products to you, so they start sending you emails.

Once your email address becomes “public” knowledge, it will probably end up on lists sold to mass marketers. Many of the email addresses may not even be valid, but when you receive an email and attempt to remove yourself from the list, you have just validated your email address to that company. Now your address goes on a list of valid emails, and the never ending flood of SPAM starts rolling in.

SPAM is sent for two very short and simple reasons. First, it is very cheap. A list of millions of email addresses costs far less than the postage and paper used to send conventional “junk” mail. Secondly, people respond to the SPAM. Even if you do not purchase anything, clicking on a link sends a message telling the SPAMMERS that you responded. SPAM remains a lucrative, viable means of selling products because there are enough people who respond and even purchase from SPAM emails.

Some people are tricked into performing actions that contribute to perpetuating SPAM. For example, 67% of email users click on the “Remove Me” link but only 7% say

they have purchased products from SPAM. 33% say they have clicked on a link in SPAM to get more information.

Unfortunately, stopping SPAM is not easy. You can report SPAMMERS to your Internet Service Provider (ISP); you can employ SPAM-blocking software; or you can delete it. None of these actions will stop the flow. Once your email address gets on a SPAM list, there is no way to remove it. However, there are some ways you can minimize the amount of SPAM you receive.

- When you register online, do not use your real email address. Protect that address like you would your car keys or house keys. Save it for family, friends, customers, coworkers, etc. Ask them not to forward mass emails to your real email address.
- Create a web-based secondary email account (Yahoo, Hotmail, AOL, etc.) and use this account to register online. All of the SPAM will go to this secondary address and you can delete it or forward it to your primary email address.
- NEVER EVER respond to a SPAM email.
- Do not use the “unsubscribe” button or link.
- Do not send “delivery responses” or “read responses” to the emails you receive since this validates your email address. ■

## Swerdlin Educational Series

We are heading back to the Swerdlin Cafe on October 7, 2004. Please join us for:

**Now is the time to plan!  
Don't wait till the last minute!**

*How to get your cafeteria program up and running for January 1, 2005.*

Our final workshop in the 2004 Swerdlin Educational Series will be held on November 11, 2004. Please join us for:

**'Round the table**

*Round table discussions with plan sponsors on various HR topics.*

## SPAM Statistics

- 52% of email users say they are less trusting of emails because of SPAM.
- 70% say that SPAM has made being online unpleasant.
- 30% are concerned that filters will block legitimate incoming or outgoing email from being delivered.
- 75% are concerned that SPAM cannot be stopped.
- 80% are concerned about the deceptive or dishonest content.
- 76% are bothered by offensive and obscene content.



our capacity to create.

To continue with systems thinking, Senge says that business and human endeavors are systems ... bound by invisible

fabrics or interrelated actions. We tend to see things as snapshots and only part of a system. We also tend to think in linear terms. Systems thinking allows a more circular structure including much more information than does our linear viewpoint. Systems thinking is a discipline for seeing wholes ... and for seeing interrelations rather than things.

For you avid readers of Dorn's Corner, systems thinking is similar to what concept I continually think and write about?

*The answer:* Quantum Thinking vs. Newtonian Thinking. If you missed that question, you are required to read every previous Dorn's Corner!

Quantum thinking is analogous to systems thinking in these areas:

- Relationships
- Whole rather than parts
- Nonlinear cause and effect
- Intuitive

Senge calls barriers to systems thinking in organizations an "Organization Learning Disability."

One of the disabilities he calls, "I am my position." When we identify with our job and it changes, we feel as if we lost our identity. We feel lost and almost as if part of us died. People don't see themselves as part of a system but rather see only their specific contribution. They do not see any organizational consequences beyond themselves.

A second disability Senge calls, "The enemy is out there." People in organizations tend to "CYA" and look for others to blame, both inside and outside their organization. When a problem arises in our organization, it most likely lies in the system rather than individuals. We like to blame people but the source of the problem is usually found in the system or structure.

A third organizational learning disability arises from the "Fixation on Events." Our society focuses on short term events and we don't think about the long-term, gradual processes which greatly affect our organization and our world. "The primary threats to our society ... come not from sudden events, but slow, gradual processes." Senge gives an

example with the "Parable of the Boiled Frog." If you put a frog in a pot of boiling water, he will immediately try to jump out. But if you put him in a pot of water at room temperature, he will not react. As you turn up the heat, he will stay in the water until he boils.



The frog is programmed to deal with sudden threats but not gradual threats.

I look forward to writing more about systems thinking and learning organizations in future issues. ■

## Vision Statement

We strive for financial strength for our clients, our employees and our company by caring to be the best. We are committed to be the leading pension consulting firm in our market. We achieve this through cooperative teamwork, community building and continuous learning and development.

## Mission Statement

We focus primarily on design and administration of retirement plans. Our mission is to develop relationships with our clients, our employees and our community so that all parties grow and develop financially and otherwise.

## Shaping Your Retirement World

Knowing the complexities and understanding the choices and options available in the retirement world shouldn't be a focus of your job; it's a focus of ours. We help you shape your retirement program to better meet the needs and goals of your company and your employees. Swerdlin & Company is the only resource you need to answer all of your retirement plan questions. Our job is to make yours easier!



## Swerdlin & Company

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