

NEWSLETTER

President's Message:



See ya later, 2023!

As we bid farewell to 2023, I hope everyone can take a moment to reflect on this year with a smile and enjoy special moments with family and friends. I, for one, am happy to announce that

the gift-wrapping extravaganza for my three wonderful kids has finally ended! Now let's switch gears and discuss what's coming in the new year.

I would first like to congratulate Tom Drosky, a distinguished member of our board and president, on his well-deserved retirement. Tom has been an integral part of our board for several years, bringing his extensive insight and wealth of experience to every meeting. As we bid Tom a fond farewell, we express our deepest gratitude for his invaluable contributions and dedication to our organization. May this new chapter be exciting and fulfilling.

Additionally, Curtis Farrell will be stepping down as a board member to go on a mission. We send Curtis the warmest wishes on this admirable journey as he leaves on his mission. For the remainder of his term, Curtis' colleague at Financial Management Network, Inc., Aran Sahagun, will be filling his shoes. Welcome to the board!

Last, but certainly not least, we also wish to give a warm welcome to our newest board member, Paul Yossem, from Nationwide. For additional board-related information, please check out the board changes later in this newsletter.

As your newly appointed president of the Orange County Chapter, I am committed to ensuring our events continue to inspire, educate, and foster collaboration through networking.

For starters, our recent 2023 Western Benefits Conference was a resounding success! The collaborative efforts of our governing board made this event not only possible but truly extraordinary.

Thanks to our Program Committee, we also have several upcoming events that promise to be engaging and enriching. Here's a sneak peek at what's in store:

- **January 11, 2024** - Nicole Aguilar and Jason Garcia from CliftonLarsonAllen LLP present "Navigating Fiduciary Responsibility and Common Compliance Concerns in Retirement Plans."
- **January 24, 2024** - Four industry experts will be speaking at our 16th Annual "Retirement Plan Essentials." If you or your colleagues are new to the industry, this is an event you won't want to miss!

Cheers to a wonderful year and an amazing one ahead of us! I look forward to seeing you all in January at our monthly meeting.

Samantha Graboff, Windes
Orange County Chapter President

Read More

Ask the Expert	P.2
Member Profile	P.6
Quarter in Review	P.7
Retirement Plan Essentials.....	P.10
Board Changes.....	P.11
Upcoming Events.....	P.12
Membership Advantages	P.13
Sponsors.....	P.14



ASK THE EXPERT!

Navigating Fiduciary Responsibility: A Guided Path by Shaelyn Rumley

Fiduciaries: Who are they and what is their mission in a retirement plan?

Think of fiduciaries as the trusted captains of the retirement plan ship. They are responsible for guiding the plan through the complex waters of legal and ethical obligations. Plan sponsors, plan administrators, investment committees, board of directors, trustees, investment advisors and anyone exercising discretion in the administration of the plan are all considered fiduciaries. Just as a captain is responsible for the safety and well-being of their crew, a retirement plan fiduciary's primary mission is to act in the best interests of the participants and beneficiaries. This critical journey requires charting a prudent course, understanding compliance challenges, and implementing key internal controls. By understanding and managing these areas with diligence and foresight, fiduciaries can successfully lead the retirement plan towards a secure future for all its participants.

What does fiduciary responsibility entail?

Fiduciaries are also responsible for managing retirement plans prudently and in good faith. This means making wise decisions, diversifying plan investments, reviewing plan expenses for reasonableness, defining and adhering to the plan document. Failing to fulfill these duties can lead to legal consequences.

What are common compliance issues?

As it is important for captains to avoid turbulent waters, it is also important for even seasoned fiduciaries to be aware of some common compliance issues.

Common compliance issues include:

- Late remittance of employee money: When are remittances of participant contributions and loan repayments considered late? The Department of Labor (DOL) requires that these funds be remitted to the Plan at the earliest reasonable date, but no later than the 15th business day of the month that follows the month the company withholds the funds. The common mistake a company often makes is relying explicitly on the "no later than the 15th business days" verbiage. In practice, we have seen instances where large companies with multiple payroll locations receive DOL advice to remit within 7 days. The reality is that the DOL will take into account a company's normal remittance pattern. For instance, if the company demonstrates an ability to remit the funds within 3-5 business days, then this is considered the employer's normal pattern. And the DOL may deem any outliers from the normal pattern to be late. Setting and consistently keeping a remittance

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Continued from page 2

timeframe that incorporates regular review and reconciliation is recommended for plan sponsors to avoid correction of lost earnings and excise taxes.

- **Failure to remit employee money:** When plan sponsors withhold participants' money and fail to remit it to the plan, this can be construed as a loan between the plan and plan sponsor, which would be a prohibited transaction. This may result in disqualification of the plan. To avoid prohibited transactions, implement procedures to ensure that the amount withheld from participants reconciles to the amount remitted to the trust.
- **Compensation errors:** Having a clear understanding of eligible and ineligible compensation, as defined in the plan document, is crucial to accurately administer the plan. When deferrals are not withheld on eligible compensation, this results in missed deferral opportunities for participants and may require costly corrections for the Plan Sponsor. Deferrals withheld on ineligible compensation may result in a correction due to excess contributions. These discrepancies often stem from payroll administrators either not understanding what compensation is eligible or not having good tracking systems. Some common examples of problems are: 1) amendments to compensation that were not communicated to key personnel responsible for plan administration, 2) inaccurate payroll coding for compensation, 3) the addition of new compensation types in the payroll system without corresponding adjustments to deferral coding.

Transparent communication, adequate training, and a checklist of procedures when plan amendments or changes to compensation take place can all help payroll administrators accurately administer the plan.

- **Eligibility issues:** Inconsistent application of eligibility rules or insufficient monitoring of eligibility can lead to situations where eligible employees are inadvertently left unenrolled, while ineligible employees may be enrolled. This carries consequences similar to missed deferral opportunities for eligible individuals and the need for corrections regarding excess contributions for those who are ineligible. Providing adequate training and establishing eligibility monitoring is critical.
- **Lack of documentation:** When eligible individuals choose not to participate, a notable risk arises when plan sponsors lack documentation substantiating an employee's decision to decline participation. Plan administrators also need to ensure that the employees had awareness of the plan and their potential eligibility date. Such a deficiency poses a significant challenge for plan sponsors during regulatory audits and can result in legal and financial consequences. Avoid errors in this process by requiring that participants decline by email, through paper election, or online and retaining these records. As a best practice, have new hires confirm in writing that they have received the retirement plan information and eligibility date during their onboarding process.

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Continued from page 3

- **Auto-enrollment issues:** Delays in implementing auto-enrollment is also a common audit finding. Such delays often stem from administrative challenges with inefficient systems or technical limitations within the payroll. Sometimes benefits administration systems don't make auto-enrollment easy and personnel responsible for auto-enrollment may be insufficiently trained, resulting in errors or delays. Such delays present the risk of non-compliance and missed deferral opportunities in the auto-enrollment process. It's important for plan sponsors to evaluate their system and personnel capabilities and determine whether auto-enrollment is working efficiently. If not, what training, monitoring, changes or procedures are needed to ensure auto-enrollment is working properly?

How can internal controls help fiduciaries?

Just as sailors once used the North Star to navigate and stay on course, internal controls help keep a company on the path to its goals, ensuring that it doesn't stray into risky or non-compliant territories. Retirement plan fiduciaries need internal controls to stay the course. Adequate controls help prevent errors, fraud, and non-compliance. Internal controls should cover areas such as governance, contribution processing, participant data accuracy, and investment management. Regular monitoring and periodic assessments of internal controls contribute to the overall integrity of the retirement plan. A good control environment begins with the tone and guidance from the top.

- **Governance structure:** It is essential for fiduciaries to implement a clear governance structure, document their decision-making processes, and regularly review the plan's performance.

Having an established investment committee responsible for selecting, monitoring, and reviewing investment options is critical in ensuring that selected investments and decisions continue to align with the plan's objectives and the best interests of participants. Captains pay close attention to weather forecasts. Investment committees must do the same with financial market conditions and make informed decisions so that the retirement plan will weather economic storms.

- **Documentation and Recordkeeping:** Establish a systematic recordkeeping process to ensure the availability of accurate and complete documentation for audits and regulatory compliance. This includes retaining plan records for at least 6 years after filing ERISA returns or reports, including documents that support the employee benefits plan disclosures and annual reporting in accordance with Section 107 of ERISA. For a list of documents to retain, go to: <https://windes.com/erisa-record-retention-requirements/>
- **Participant Data Accuracy:** Conduct periodic data audits to identify and rectify inaccuracies promptly to maintain the accuracy of participant data, including personal information, contribution records and eligibility status.
- **Authorization and Approval Procedures:** Establish a hierarchy for approvals and ensure that all transactions, plan amendments, and any other significant activities are appropriately authorized before processing.

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Continued from page 4

- **Cybersecurity Measures:** Regularly update security protocols, conduct cybersecurity training for staff, and perform vulnerability assessments to safeguard against cyber threats to sensitive participant data, financial information, and other confidential plan-related information.
- **Compliance Monitoring and Training:** Regularly review transactions to identify and address any potential compliance issues promptly. Consult with an ERISA attorney prior to making any unusual or abnormal changes to the plan document investment selections to ensure compliance with ERISA regulations. Stay informed about changes in retirement plan regulations and require plan administrators to complete training programs annually.

In addition to the above internal controls, plan sponsors should also review the SOC 1 report of their service providers, particularly those whose role impacts plan administration, such as the recordkeeper and payroll provider.

Not only does the SOC 1 report serve as a comprehensive assessment of the internal controls implemented by these service providers, it often includes the controls that the service provider requires plan sponsors to implement.

Plan fiduciaries, like captains of a retirement ship, must steer through the complexities of their responsibilities, always focusing on the best interests of participants. They need to set up a clear governance framework, document their decisions, and use strong internal controls to navigate effectively. They must also proactively handle issues like late remittances, errors in compensation, enrollment delays, and ensure they are compliant with the plan document and ERISA rules and regulations to avoid severe penalties. By carefully planning their route, maintaining effective controls, and tackling compliance issues head-on, fiduciaries can successfully lead the retirement plan to its goal, protecting the financial future of those involved.

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About the Author

Shaelyn Rumley, srumley@windes.com

Shaelyn joined Windes in 2008 and is a Senior Manager in the firm's Audit & Assurance Services department. She focuses on audit and review services for privately held companies. Her experience also includes audits of employee benefit plans, evaluations of internal controls, and financial statement reporting. Shaelyn serves a wide variety of clients in the manufacturing, real estate, distribution, recycling, technology and agricultural industries with both domestic and international subsidiaries.



MEMBER PROFILE

Scott Bivens, Audit Partner

Kieckhafer Schiffer LLP

WP&BC Corporate and Gold Member

Describe what services your business provides.

Private company financial statement audits and reviews, nonprofit audits, retirement benefit plan audits including 401(k), 403(b), Pension, ESOP.

Why do you support WP&BC OC?

Networking with other professionals in the retirement plan world, continuing education and compliance updates.

What changes have you seen in the retirement plan marketplace over the past 5-10 years?

It seems that there has been a lot of consolidation in the recordkeeping industry and so there are less providers available to provide services.

What new directions do you see the industry taking?

Automatic enrollments could cause more plans to become large and thus the plan will require an audit, stricter compliance from the DOL, self-corrections of plan non-compliance will increase for plan sponsors

What do you perceive as some of the biggest obstacles to plan sponsors or those servicing plans?

As an auditor of retirement plans we have seen that it is very normal for the plan sponsor to have limited resources to assist with the day to day plan activities. This can cause opportunities for fraud or errors to occur as there is a lack of segregation of duties and responsibilities in internal controls related to the plan. Also, many times there is no one monitoring the plan's activities. A responsible plan sponsor will form a committee that meets periodically to discuss the plan and monitor its activities.

What do you think we can do as an industry to help overcome those obstacles?

Third party administrators, record keepers, professionals involved with plans can help to educate plan sponsors on the importance of having a committee and keeping meeting minutes from those meetings that document significant transactions or decisions made. Too often we find this is not taking place even at very large employers.

What is your favorite restaurant in Orange County? Carmelita's Mexican

If you had a day off, what would you like to be doing?

Fly fishing and backpacking in the High Sierras

KS LLP's team of CPAs and associates provide concierge-quality services to businesses and individuals along the West Coast and beyond. Our client portfolio includes highly successful public and private companies in a variety of industries, as well as individuals and families. In addition, not-for-profit clients, including public and private foundations and trusts, represent a meaningful part of our practice.

Our associates are highly skilled in the delivery of tax, audit, and consulting solutions within a wide range of industries, both domestically and abroad. We've advised organizations in the manufacturing, distribution, retail, real estate, and service sectors, guiding them through each stage of their business life-cycle.



Quarter in Review

September 14, 2023 Self-Correction after SECURE Act 2.0

Secure 2.0 has made significant changes, with one of the most impactful being the expansion of self-correction (Section 305). At our September breakfast forum, Stephen Forbes highlighted these changes in detail, using numerous case studies.



Stephen Forbes & Tom Drosky (WPBC-OC Former President)

"It was my third time hearing Steve presenting, and I continue to be awe-inspired by his depth of knowledge in the ERISA field. Steve not only shared valuable compliance updates relevant to the retirement plan industry, but his eloquence and ability to convey complex concepts makes him an exceptional speaker. I always walk away from his presentations having learned a great deal. In essence, Steve Forbes is an outstanding speaker, and his expertise adds immense value to any discussion."

Aksana Muñoz, QKC, QKA® | Lead Client Service Manager | Benefit Services Financial



Empower Team: Jhovana Ramirez, Trish McGinity, Andy Herman (WPBC-OC Board Member)

October 26, 2023 Cybersecurity & Automating Payroll in the 21st Century

Trish McGinity of Empower provided useful Cybersecurity information including awareness, prevention and response.

Jeff Kayajanian of Payroll Integration provided educational insight and best practices on Automating Payroll in the 21st Century.

"The cybersecurity presentation was very interesting for both personal and business purposes."

Christie Bergles, QKA
Capital Group

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October 19-20, 2023

Western Pension and Benefits Council National Conference

This year's national conference took place at the Westin Kierland in Scottsdale, Arizona. This sold-out event hosted benefits professionals from across the nation.

Session topics included:

- Cybersecurity
- Non-qualified Plans
- Ethics
- SECURE Act 2.0
- Plan Design
- Washington Updates

Our Orange County Chapter raffle winner, Scott Harrison of The Standard received hotel accommodations and conference registration!

Pensionmark and Penchecks (OC Chapter Sponsors) were Diamond Sponsors for this Conference.



Top: Joe Ordonez and Shannon Main, Pensionmark
Bottom: Tom Drosky, PenChecks
Left: Shannon Main (WPBC Governing Board President),
Scott Harrison, Joe Ordonez

"This was my first National meeting. What a privilege, and pleasure to represent the Orange County Chapter of the WPBC at the National Conference. Wonderful people and really great topics. Plus, Scottsdale is amazing this time of year! Meeting and networking with peers from every chapter. I would highly recommend this conference in the future!"

R. Scott Harrison Jr. QKA, TGPC, CPFA®, AIF®
The Standard

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November 16, 2023 It's Now or Never: Elvis's Top 10 Year End Benefits Hits!

Sherrie Boutwell of Boutwell Fay, LLP packed the house with members and guests eager to participate in Elvis trivia games while learning important regulatory updates.

"Terrific presentation, very educational and informative."

Denny Bilikas
Salient Wealth Planning Group

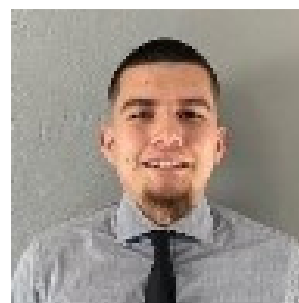
This Week! Navigating Fiduciary Responsibility and Common Compliance Concerns in Retirement Plans

It's a new year, join us for an interactive discussion with Nicole Aguilar and Jason Garcia from CLA, one of the leading providers of Employee Benefit Plan audit services. Together they will discuss:

- Fiduciary Responsibility
- Internal Controls
- Common Compliance Concerns
- Prohibited Transactions
- Compensation Issues
- Eligibility



Nicole Aguilar, CLA



Jason Garcia, CLA



Join Us at Andrei's Restaurant
Thursday, January 11, 2024
8:00 am to 9:45 am

<https://www.wpbcorangecounty.org/event-5526753>



16th Annual Retirement Plan Essentials

Topics Include

- Law Basics
- Types of plans
- ERISA
- Plan administration
- Fiduciary responsibilities
- Plan design and requirements
- Employer obligations & concerns
- Auditing a qualified plan

Our Instructors

Hitz Burton, JD, Partner, AON

Phuong Jennings, QKA, Regional
Vice President, EGPS, Inc.

Mark Murphy, CPA, Managing
Partner, Marcum LLP.

Tina Schackman, CFA, CFP,
Principal, Benefit Financial
Services Group (BFSG)

**Live Webinar
Wednesday
January 24th
8:30 am - 2:30 pm**

Continuing Education
6 credit hours ASPPA,
CPA (CA), ERPA, MCLE, NIPA

**\$125 Members
\$150 Non-Members**

Register Today!

<https://wpbcorangecounty.org/event-5526662>

BOARD CHANGES

The Board has some bittersweet changes to its membership to announce:

- Tom Drosky, our fearless leader and long-time valuable member has retired, and Samantha Graboff, formerly President-Elect, has stepped in to finish out Tom's term as of January 1, 2024.
- In February, Curtis Farrell and his wife, Cathy, will be leaving on an 18-month-long mission for his church. We wish the Farrell's a wonderful adventure and look forward to seeing Curtis on his return.
- Aran Sahagan, of Financial Management Network, Inc., will be finishing Curtis' term on the board as a member-at-large which ends June 30, 2025.
- Kathleen Salas Bass, of KLB Law Group and a long-time member of the Board, will be completing Curtis' term as Secretary which ends June 30, 2024.
- Paul Yossem, of Nationwide, will be joining the Board as a member-at-large. See Paul's profile in our September 2022 Newsletter.

HAPPY RETIREMENT TOM DROSKY

When sitting down to write this retirement tribute to Tom Drosky, I first Googled "retirement tribute samples" hoping something inspiring would pop up. While my Google search was not exactly fruitful, I did note that many of the "samples" conveyed the length of time that the individual paying tribute had known the retiree. I stopped for a moment and realized, wow, I have known Tom for almost 30 years! Aside from making me feel REALLY old, I felt a profound sense of appreciation for the many years that I have had the opportunity to work with Tom both as an industry partner as well as on the Western Pension & Benefits Council Orange County Chapter Board of Directors. When reflecting on the time we have both served on the WP&BC Board of Directors, I thought about the WP&BC Organization Mission Statement which reads: "The purpose of the Western Pension & Benefits Council is to facilitate the exchange of information, advance knowledge and education, and foster sound principles, procedures and practices in the field of employee benefit plans." To me, these words can be used to describe Tom as an industry partner! Tom has always made himself available for a call or meeting to discuss a question or problem and facilitate finding an answer or solution. Through his work at PenChecks, Tom has educated his customers and colleagues regarding the proper qualified retirement plan distribution procedures and the best practices to help ensure ongoing compliance with the distribution rules. Whether by coordinating a speaker for a WP&BC breakfast forum or attending an industry conference, Tom has been instrumental in helping our Chapter and the WP&BC as a whole to fulfil the organization's mission statement. Thank you, Tom, for your many years of service to the WP&BC, your dedication as an industry partner and most of all for your friendship. Wishing you the best and great adventures in your retirement!

Margaret Martinazzi, Pension Benefits Unlimited, Inc.



A NOTE FROM CURTIS FARRELL

I'm pleased to announce that Cathy and I have accepted a call to service a full-time mission for The Church of Jesus Christ of Latter-Day Saints the next 18 months starting January 28, 2024 in Auckland, New Zealand. Our purpose will be to help others come unto Christ by serving them as the Savior would.

Of course, please let me know if your travel plans get you to New Zealand the coming 18 months. We'd love to see you!

You're also welcome to follow me on Facebook at <https://www.facebook.com/curtis.farrell.14>



UPCOMING PROGRAM DETAILS

**JAN
11**

8AM-
9:45AM

Navigating Fiduciary Responsibility and Common Compliance Concerns

Nicole Aguilar and Jason Garcia, CLA at Andrei's in Irvine

**JAN
24**

8:30AM-
2:30PM

16th Annual Retirement Plan Essentials

Webinar featuring Hitz Burton, Aon, Phuong Jennings, EGPS, Inc. Tina Schackman, BFSG, and Mark Murphy, CPA, Marcum LLP.

Live
Webinar

**FEB
15**

8AM-
9:45AM

Roth/After Tax

Aran Sahagun, Financial Management Network at Andrei's

**MAR
21**

8AM-
9:45AM

Best Practices for Investment Lineup, Stable Value vs Money Market and More!

Mark Herzhauser, Metlife + Braden Priest, BFSG at Andrei's

**APR
18**

8AM-
9:45AM

Litigation Update

Brad Huss, Trucker Huss at Andrei's

**MAY
16**

8AM-
9:45AM

Fiduciary Issues

Rich Luna, Boutwell Fay, LLP and Rick Unser, Creative Planning at Andrei's

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- Reduced fees to our many program offerings including monthly Breakfast/Afternoon Forums and seasonal Technical Lunches
- Access to WP&BC-OC membership directory
- Opportunities to earn up to 25 CE credits applied to AIF, ERPA, ASPPA, NIPA, CEBS, CFP, CPA (CA), CRPS, General & MCLE

\$ 150

GOLD

- Provides all the advantages of Individual Membership, PLUS:
- All Orange County Monthly Forums are pre-paid
- Invite one guest free of charge to the Monthly Forums and Technical Lunch Forums

\$ 400



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CORPORATE

- Up to three associates may attend the Monthly Forums at no added cost
- Reduced rates on all other WP&BC-OC events, Annual National Conference, and WP&BC Webinars
- Recognition on a PowerPoint presentation at each OC chapter meeting and on the WP&BC-OC website
- Current Corporate Members include Capital Group, Financial Management Network, Index Fund Advisors, Irvine Company, Keckhafer Schiffer LLP, PPSS, Inc., and Withum

\$ 1000

SPONSOR

Enjoy all the Above PLUS: By being a Sponsor, your company receives a tremendous number of promotional opportunities that include:

- Up to three representatives/guests may attend live Monthly Forums at no added cost.
- Your logo displayed on a banner on all WP&BC-OC emails, large posters and tabletop displays at all meetings
- Your logo featured on the Orange County Chapter Newsletter & Chapter Website
- Reach over 1,000 benefits professionals on every mass email sent out.

\$ 2500



The Western Pension & Benefits Council
Orange County Chapter
appreciates our Sponsors
whose support
enhances all that we do!

