

THE LITTLER

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WELCOME

PHOENIX, ARIZONA ■ APRIL 12 - 13, 2007

THE **2007** EXECUTIVE  
EMPLOYER CONFERENCE

LITTLER MENDELSON, P.C.

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LITTLER #10

Charged with  
**Overcharging:** Class Action  
Lawsuits Filed Against  
Employers in Connection  
with Common 401(k)  
Practices

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# What's Going On?

- Cases Filed in Illinois (all in 2006-2007)
  - Lockheed Martin Corp.
  - International Paper Company
  - Exelon Corp.
  - Caterpillar, Inc.
  - General Dynamics Corp.
  - Boeing Company
  - CIGNA Corp.
  - ABB
  - Kraft Foods Global, Inc.

# What's Going On?

- Cases Filed Elsewhere (all in 2006-2007)
  - Bechtel Corp. (California)
  - Northrop Grumman Corp. (California)
  - United Technologies (Connecticut)
  - Deere & Company (Wisconsin)
  - New York State United Teachers (New York)

# Where Are All These Cases Coming From?



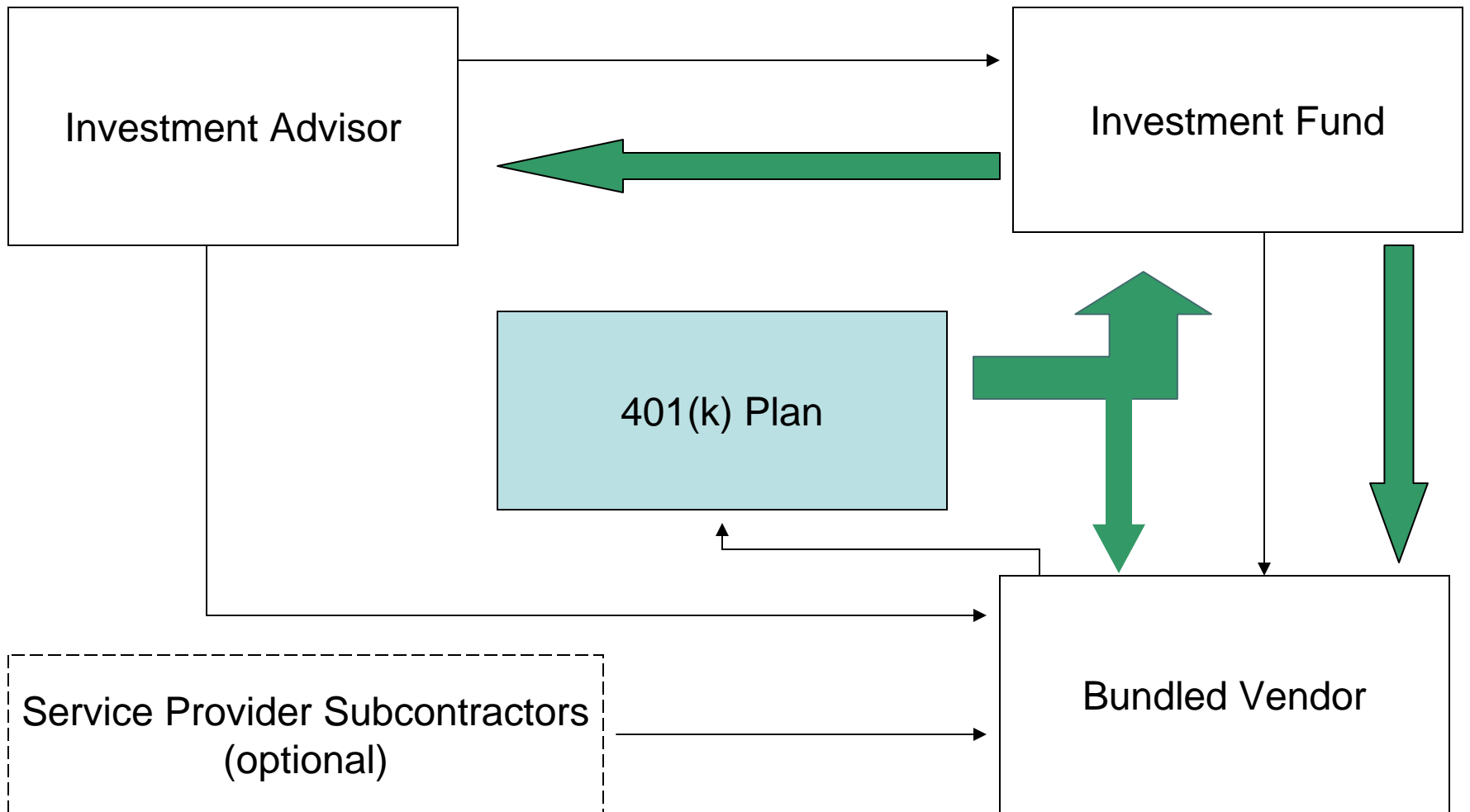
- The Government looks at 401(k) Plan Fees
- Some cases filed against mutual fund providers and annuity providers

# Follow the Money



- Where do the fees come from
- And where are they going?

# Follow the Money



# Legal Issues Arising in Fee Litigation



- The Fiduciary Standard
- Are the Fees Coming From Plan Assets?
- Avoiding Prohibited Transactions
- § 404(c) Safe Harbor

# Best Practices to Minimize Exposure



- Selecting and Monitoring Investment Options
- What Are You Paying and What Are You Getting?
- Documenting the Process
- Dealing with Employer Securities

# Preparing For the Worst



- How to recognize an oncoming class action
- What happens if a lawsuit is filed

# What's Next?



- Regulatory Initiatives
  - SEC
  - DOL
- Legislative Initiatives

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THANK YOU

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