View from the Summit

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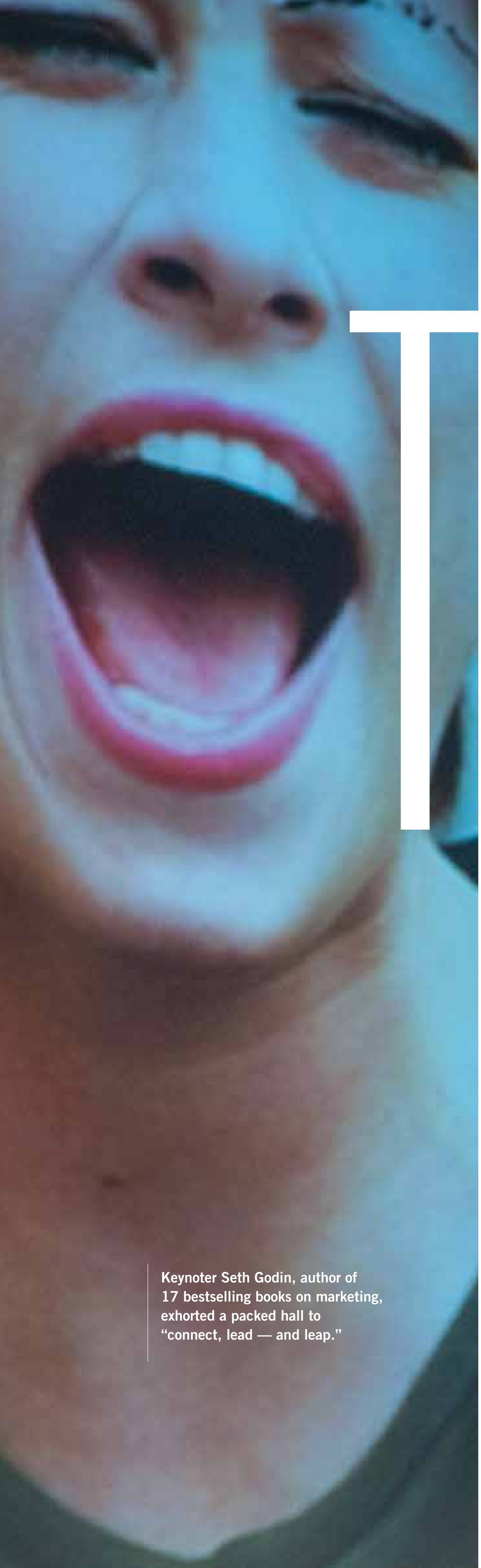

Keynoter Seth Godin, author of 17 bestselling books on marketing, exhorted a packed hall to "connect, lead — and leap."

THE NAPA 401(K) SUMMIT CONTINUES ON ITS PATH OF GROWTH AND ASCENDENCY. THIS YEAR'S EVENT — ALREADY THE LARGEST ANNUAL GATHERING OF 401(K) ADVISORS, THOUGHT LEADERS AND INDUSTRY INSIDERS — GREW TO NEARLY 1,500 ATTENDEES DRAWN BY THE SUMMIT'S GENERAL SESSIONS, WORKSHOPS AND NETWORKING OPPORTUNITIES. And three days of pleasant late March weather allowed for plenty of out-and-about activities in New Orleans, putting a welcome exclamation point on the end of one of the harshest winters in recent memory.

Let's take a look at some of the high points of this year's Summit.

Do 401(k)s Only Benefit the Wealthy?

It didn't take long for the politically charged issue of income inequality, especially as it pertains to 401(k) plans, to take center stage at this year's NAPA 401(k) Summit. At the always-popular Washington update general session less than an hour into this year's Summit, NAPA's executive director/CEO Brian Graff raised the issue.

Graff, who shared the stage at the Summit's kickoff general session with a high-ranking staffer for the Senate Finance Committee, cited remarks made by President Obama in the wake of this year's State of the Union address urging Congress to join his efforts to "fix an upside down tax code that gives big tax breaks to help the wealthy save, but does little or nothing for middle class Americans."

"Income inequality will get fixed when more jobs are created and wages go up," said the staffer. He noted that Section 401(k) "is the only part of the tax code with a built-in provision that says that lower-paid workers have to kick in to the plan before highly compensated ones are allowed to. "That's the opposite of 'upside down,'" he declared.

On the issue of boosting coverage, and thereby retirement savings, the key is to focus on the employer, he said, not the employee. He cited two data points: (1) about 25% of employees don't have access to a workplace retirement plan; and (2) the take-up rate in a 401(k) plan with an auto-enrollment feature averages in the mid-80% range. Instead of encouraging employers to offer a retirement plan to connect those dots, he said, "Democrats in Congress, and many Republicans as well, say: 'Mandate it.' It's time to have that discussion," he said.

Turning to the political climate in Washington, the staffer noted that issues affecting retirement saving and the retirement industry have grown a lot more partisan since EGTRRA was enacted on a broad bipartisan basis in 2001. Progressives would like to move to a government-run, taxpayer funded retirement system, he believes, via a three-phase process:

1. *Government-mandated plan.* The first example of this approach is the auto-enroll IRA solution that can be found in several legislative proposals in Congress, and in proposals being considered in numerous states as well.
2. *Make the Saver Tax Credit refundable.* A bill to make this change may be introduced in Congress soon, he believes.
3. *Government chooses the investment vehicle.* This approach is a foundational element of the president's MyRA accounts. Federal staffers are now developing a new government bond for this purpose, with the intent of launching a pilot program in 2015. Additionally, an RFP is already out for record keeping monies in the MyRA program, he noted.

DOL's Definition of Fiduciary Rule

"These are watershed times," remarked Pentegra Retirement Services' Pete Swisher of the now-years-long Department of Labor effort to change the definition of fiduciary. The Department of Labor first issued proposed regulations on this matter in 2012, but the release of the regs in final

TOP: NAPA Executive Director Brian Graff and industry critic Teresa Ghilarducci faced off on the virtues and criticisms of the retirement system.

LEFT: In a workshop on committee meetings, Compass' Kathleen A. Kelly and Moreton's Chad J. Larsen outlined their firms' goals and approaches.

form have been delayed.

"The best bet is that the final regs will look like the proposed regs," said Drinker Biddle & Reath partner Fred Reish. Reish also expects that the final form of the regulations will expand the definition — and that that will change the way people do business.

Swisher agrees. He said that clients need help in this area because "many don't realize they are fiduciaries in the first place. That a plan sponsor can delegate is "hard-coded in the statutes," he said, but they can't delegate all responsibilities.

Reish noted that the DOL is conducting an economic analysis concerning the regs, which he said suggests that they expect litigation.

But when will the DOL even issue the final regulations? At this point, they're scheduled to be released in January 2015.

The reason? The November congressional elections. But some believe that the political implications go beyond this fall. "Some folks say it's so political, it will never see the light of day," said Swisher, adding, "but I don't think that will happen."

Reish was not quite as optimistic, and remarked, "I hope I live long enough to see the Republicans and Democrats get along, but I'm not optimistic."

The Status Quo Is Not Acceptable

"It's not just about a decision to save, it's about saving more." NAPA executive director/CEO Brian Graff captured the heart of the discussion over retirement readiness at a packed general session. Graff debated Teresa Ghilarducci, Chair of Economic Policy Analysis and Director of the Schwartz Center for Economic Analysis at the New School — and well-known critic of the 401(k) system.

Ghilarducci took issue with the degree to which individuals in the United States have responsibility for their retirement compared with citizens in other advanced economies. She said the 401(k) system "has been mostly a failure," an experiment she believes has gone wrong for the middle class. "You're blaming the drought on the well," countered Graff, observing that the real problem with the 401(k) system is that not enough people have access to a workplace retirement plan.

Ghilarducci backpedaled somewhat, saying later that putting "5% in 401(k)s is fine" and that she does not want to "blow up" the 401(k) system. But there is more to the problem than 401(k)s themselves, according to Ghilarducci. She contends that even if accountholders have done everything right, many of them have "no clue how to handle their funds."

Graff and Ghilarducci shared a conviction that the recent finding by the Employee Benefit Research Institute that a large percentage of the population has saved very little is, as Graff put it, "very significant." How to address that, however, engendered lively debate. Ghilarducci is a strong proponent of mandates to increase saving rates and retirement plan participation. She argued that the government should mandate that individuals save 5% of their income for retirement "because people should not have to decide with each paycheck whether to save."

Graff did not join her in supporting such a mandate. "Part of the challenge," he said, "is getting people covered by a workplace plan." Graff noted there may be room for exploring a different policy. "It may be that the only way we move the needle is to require employers to do something. But what is that something?" He and Ghilarducci found common ground in an idea that may be worth exploring: a "soft mandate" that would require employers to provide employees with access to a retirement plan.

But Graff reiterated his support for a voluntary system, asking Ghilarducci if it wasn't a good idea to focus tax benefits in a way that would encourage those with lower incomes to save more. "There is no incentive in the tax system for those not paying income tax" to participate in a 401(k), he said. He suggested that a refundable savers' credit would help address that, an idea with which Ghilarducci agreed.

As Target Date Funds Turn 20, What Does Their Future Hold?

The target date fund concept, which celebrates its 20th birthday in March, is still growing in popularity and complexity. Wells Fargo and Barclay's debuted the first TDFs in March 1994 — followed by Fidelity in 1996, The Principal in 2001, T. Rowe Price in 2002 and Vanguard in 2003.

With a warning that those who try to predict the future in the retirement business are nearly always wrong, Mark Pfeil, managing director of investment research at SageView, shared his perceptions at a workshop about what the future may hold for TDFs after the birthday party is over:

- Active vs. passive: This debate will continue, driven by a focus on fees.
- More alternative asset classes in TDFs; a trend to keep an eye on as fees come down.
- Customization may move down market.
- Convergence of the investment manager and the consultant.
- An increase in tactical approaches to allocation.
- More detailed analysis, and benchmarking requirements.
- Metrics: As TDFs develop track records over time, we will be better able to measure their success.
- Risks to bond portfolios in TDFs in a low interest rate environment.
- Addition of an annuity option.
- Movement away from all proprietary products.
- Risk management in TDFs.
- Continuation of the to-versus-through debate.
- Providers will offer different strategies (e.g., low, moderate and high risk) within a single product.
- Does it really make sense for equity allocation to decline throughout retirement?

The 2014 401(k) Advisor Leadership Award winner Kathleen A. Kelly, representing the team at Compass Financial Partners, was joined by NAPA executive director/CEO Brian Graff; fellow award nominees T. Henry Yoshida representing the team at Maresh Yoshida 401(k) Group, and Bradley K. Arends representing the team at Alliance Benefit Group Financial Services; and NAPA President Steven Dimitriou (left to right).

Developing a Sound Rollover Strategy

There's good news and there's bad news on the IRA rollover front. The good news: The regulatory agencies and industry groups with jurisdiction over IRAs — the DOL, the SEC and FINRA — seem to be getting on the same page, diminishing the likelihood of conflicting mandates from multiple regulators. The bad news: They seem to be moving in the direction of the DOL's approach to rollovers, increasing the likelihood of yet another participant disclosure mandate.

Moderator Patrick J. Rieck, executive director of Morgan Stanley Wealth Management, characterized the issue facing plan advisors as "educate versus recommend" — that is, if you choose to recommend an IRA rollover, you must follow FINRA's directions. That will require collecting pertinent information from the individual. "The gist of the issue is to function as a retail financial adviser would," explained Pension Resource Center founder and CEO Jason Roberts. "Imagine yourself as not having a relationship with the individual, and having to fulfill the duty to educate that person and explain the pros and cons."

Roberts indicated that the DOL's focus on IRA rollovers is still at the policy level. Rollovers are not a high-profile issue among DOL examiners at this point — though that may change, he said.

As sometimes happens, Rieck noted, the industry is responding to issues raised by the DOL, and adjusting their best practices to be more in line with what regulators are seeking. "The marketplace tends to do the right thing," he observed.

The panel offered these best practices for IRA rollovers:

- educate participants about all distribution options;
- discuss the tax implications (*e.g.*, Roth IRA, indirect rollover, age 55, age 59-1/2, NUA, etc.);
- disclose fees and any conflicts of interest;
- compare investment options and services; and
- engage in long-term financial planning discussions.