PERSONAL FINANCE

Pension funds must be repaid R20m fees for admin bungle

August 19 2012 at 12:30pm
By Bruce Cameron
http://www.iol.co.za/business/personal-finance

Illustration: Colin Daniel

Former trustees of one of four troubled umbrella retirement funds “unlawfully” deducted about R20 million (2.5 percent) from the savings of 11 000 retirement fund members employed by 200 companies to reconstruct records left in a mess by the funds’ former administrators and fund sponsors, Dynam-ique Consultants & Actuaries.

One of the four funds previously administered by Dynam-ique has now been ordered by newly appointed deputy Pension Funds Adjudicator Muvhango Lukhaimane to recalculate within three weeks the value of the holding of a member who complained to her about the reduction.

And the new administrator, Aon Hewitt, which has had problems with its own funds, was also criticised by Lukhaimane for not undertaking a proper due diligence into the state of the funds before it took over their administration (see “FSB lifts new-business ban on administrator Aon Hewitt”, below).

However, the determination creates problems of its own, according to Ren Dunster, the attorney representing the new trustees, because the determination does not make it clear where the R20 million will be sourced. The funds hold only the reduced value, and the only way the funds can increase member values is to increase the value of the assets, and there is no indication of where the 2.5-percent improvement in value will come from within the deadline.

The current trustees are to meet the Financial Services Board (FSB) next week to discuss the problem before they finalise their position. The trustees are suing Tony Kamionsky, the owner of former administrator Dynam-ique Consultants & Actuaries, and “certain former trustees” as well as Aon Hewitt.

Aon says it “will defend vigorously any allegations against us”.

Auditors Deloitte & Touche were called in 2010 to sort out the mess left by Dynam-ique, which was the administrator of the four umbrella retirement funds until 2008.

In 2008, the South African arm of global financial services company Aon took over the administration of the funds after it bought the Dynam-ique administration system but not the company.

The four funds, with combined assets of about R800 million, are:

* Dynam-ique SA Umbrella Pension Fund, with 937 members and 17 participating employers;

* Dynam-ique SA Umbrella Provident Fund, with 5 343 members and 101 employers;

* Integrated Future Umbrella Pension Fund, with 711 members and 12 employers; and

* Integrated Future Umbrella Provident Fund, with 4 272 members and 70 employers.

Lukhaimane found that the rules of the funds did not allow for the costs of the rebuilding of records to be deducted from member assets.

She found the cause of the problems in the Dynam-ique funds lay with Dynam-ique in that it did not keep proper records or administer the funds in accordance with its agreement with the funds.

Aon had then purchased the administration of the funds without conducting a proper due diligence, inheriting the administrative problems as a result of “its failure to act with care”.

Lukhaimane says the ultimate responsibility for the administrative mess lay with the trustees of the funds, who failed in their duties to:

* Exercise a rigorous oversight function over the administrators;

* Act with due care, diligence and good faith in respect of the operation and administration of the funds; and

* Ensure that the funds had adequate indemnity cover to provide for gross negligence resulting in financial loss or liability.

New trustees going to court to claw back costs

The current trustees of the four Dynam-ique umbrella retirement funds are suing Aon Hewitt and the owner of the former administration company of the funds, actuary Tony Kamionsky.

Legal action currently under way is as follows:

* Arbitration proceedings have been instituted against Dynam-ique Consultants & Actuaries, the previous administrator, for the recovery of the costs of the rebuild that was necessary due to their poor record keeping and failure to ensure that the administration business was conducted in accordance with the Pension Funds Act.

* Kamionsky is being sued in his personal capacity as a director of Dynam-ique Consultants & Actuaries and as a trustee of the fund in order to recover the costs of rebuilding the records of the four funds.

* Aon Hewitt is being sued on both a contractual and delictual basis for the costs of the rebuild.

* Kamionsky is suing the four funds, claiming that they should indemnify him. This case is due to be heard in the Johannesburg High Court in November.

FSB lifts new-business ban on administrator Aon Hewitt

The Financial Services Board (FSB) has lifted what was effectively a ban on Aon Hewitt South Africa – which is part of global financial services group Aon – from taking on new retirement fund administration business.

But the company admits it still has a “significant amount of corrective work that must be undertaken”.

The FSB told the company last year that it was not allowed to accept new clients because of various problems with its administration of 73 retirement funds with about 56 000 members. It gave Aon 12 months to get its act together.

The first phase after the FSB intervention last year, according to Jaco Kok, chief executive of Aon Hewitt, was focused on ensuring that “our ongoing administration is of a standard in line with our global reputation”.

The focus has “now shifted to a client-specific review and catch-up”.

He says the FSB, in lifting the ban on new business, has made it clear that this will be “no excuse to relax our approach to resolving legacy issues”.

Kok says that Aon Hewitt is “covering all the costs related to the review, including required corrective administrative action for which it is responsible across all funds, including the Dynam-ique funds limited to where it was responsible for problems”.

He says the company will not be covering costs related to the “sub-standard administration performed by any administrator prior to our tenure as administrator (of the Dynam-ique funds)”.

Jurgen Boyd, the FSB’s deputy chief executive in charge of pension funds, this week confirmed the lifting of the moratorium on new business, which followed an FSB inspection.

He says the inspection indicated governance problems and a failure to adhere to FSB instructions to retirement fund administrators.

Aon was also warned last year that if it failed to adhere to the directives, the registrar might take further action, which could include suspending or withdrawing its administrator licence.

Boyd says the ban on any new pension fund administration business was to be maintained until:

* The problems were addressed to the satisfaction of the Registrar of Pension Funds.

* There was a timeous and accurate migration of certain identified funds to the Aon platform. This had to be verified by an independent audit firm.

* The administration records of certain funds had been accurately rebuilt.

* An independent review confirmed that Aon’s administration process was well defined and effective, as required by the provisions of the Pension Funds Act.

Boyd says the Registrar of Pension Funds is now satisfied that Aon has sufficiently addressed all of these matters, and the restriction on taking on new administration business has been withdrawn.

The Aon ban on new business was part of a general toughening up by the FSB on retirement fund administrators.

Other measures include the toughening up of a 2002 FSB notice to retirement fund administrators on the legal parameters of their operations.