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Trustees used staff funds to improve firm

R20m TO BE PAID BACK TO MEMBERS

PENSION fund adjudicator Muvhango Lukhaimane is cracking the whip on anyone who breaks the law.

Early this month, she ordered the former trustees of IF Pension and Provident funds to repay R20-million belonging to members.

In July 2010, the former board of trustees of IF funds appointed Deloitte and Touche to audit employees' pension and provident funds from 2004 to 2008.

The audit was done because both funds' data were found to be inaccurate.

The audit found that the former trustees had used the money to rebuild IF Provident Fund's data and record system. The trustees, Gail le Grellier, Renier Botha, David Lepar and Carel Smith, were ordered to pay back R5-million each to both funds.

Lukhaimane ruled that trustees who did not manage people's funds properly should be held liable.

She said the employees who contributed to the provident and pension funds complained to her office, accusing the former trustees of maladministering their fund credits to pay for reconstructing IF's data and records.

The IF funds were administered by Dynamique SA Consultants and Actuaries until January 31 2008, when Aon South Africa took over the administration of the IF funds after Aon bought Dynamique's fund administration business in 2008.

The cost of the rebuild exercise amounted to about R20-million, which cost each member 2.5% of their fund credits.

The employees protested when they were told that the board intended to use their money to reconstruct the funds data and records system.

The employees said that the decision to rebuild IF's data was as a result of maladministration of the funds relating to un-credited re-investments to their accounts, unrecorded switches between investments, inaccurate recording of monies deposited into the bank accounts of other funds and a lack of monthly

and annual audits.

The employees said the trustees failed to ensure that the IF Pension and Provident Funds investments were made in accordance with the Pensions Act and the Financial Advisory and Intermediary Services Act 37 of 2002.

They also said that the administrator had failed to keep proper records, failed to perform monthly and annual audits and that assets and liquidity requirements were not maintained.

Also, the sale of Dynamique's fund administration business to Aon was not adequately disclosed or dealt with in terms of section 13B(5)(a) of the Act.

The employees also said that the former board of trustees failed to comply with its fiduciary duties provided in sections 7C and 7D of the Pensions Act.

The former trustees, who made the decision to effect a rebuild of the funds' data, resigned on February 10, 2011 and the rebuild was done after the new board had been appointed.

The new board of trustees endorsed the decision made by the previous board of trustees because they saw no need to question the decision made.

The pension fund adjudicator ruled that the parties who were liable for the maladministration of the funds' records, which caused the need for the rebuild exercise, were Dynamique, Tony Kamionsky, Aon and former trustees who contributed to the maladministration.

Lukhaimane's office then issued a determination on July 31 last year ordering IF to recalculate the member's fund values and to credit them with the 2.5% that was used to fund the cost of the rebuild exercise.

However, IF funds filed an appeal at the South Gauteng High Court, but the court upheld the decision of the pension fund adjudicator.

In the light of the court order, Lukhaimane subsequently ordered Le Grellier, Botha, Lepar, and Smith to repay the pension and provident fund employees R20-million, plus interest.



PAY UP: Muvhango Lukhaimane
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