

Sinful waste as unclaimed pension benefits pile up



SYSTEM FAILURE

Allan Greenblo

IMAGINE that Santa Claus has started his descent with a bag of goodies to fill your festive stocking: a computer tablet, a designer watch, a leather briefcase. You're confident they're on their way because, spoiled spouse that you are, you've been dropping hints aplenty.

Then imagine that, come Christmas morning, nothing arrives. The stocking is empty. How terrible to be deprived.

Now imagine instead a situation of real deprivation: family members battling for daily sustenance. Terrible for them is when Santa, wanting to deliver a pile of cash they're owed, can't find them.

To receive it isn't a present, but a right. Take heart that the family members never knew about their due in the first place.

Thus it goes with unclaimed pension benefits. In these unclaimed benefit funds (UBFs) lie billions of rand incapable of distribution because nobody has the foggiest notion of where the beneficiaries are. Some pension funds are understood to have more in unclaimed benefits than they have in benefits for active members.

For the unfortunate individuals who cannot be traced, the problem seems intractable. For the vast amounts of money left to slosh around in the unclaimed benefit funds, piling up and drawing fees for administrators pending distributions that will never happen, the sheer unproductivity of capital is equally sinful.

Surely it would be preferable, after a reasonable period of unsuccessful attempts to trace the beneficiaries has elapsed, that the money be better deployed by handing it over to the fiscus or increasing the benefits of those whose updated contact details are accurately recorded.

Please think about it, National Treasury, urges pensions lawyer Rosemary Hunter. The longer it takes for beneficiaries to be traced, the less probable that they will ever be found.

There is no clear law on when it goes to the fiscus, and no argument seems yet to have been considered on why at least a proportion of it should not be shared among traceable members.

Unclaimed benefits are any benefit not paid by a pension or provident fund to a member, former member or beneficiary

within 24 months of the date on which the benefit is legally due and payable under the fund's rules. They include a benefit payable as a pension or annuity. Money can be kept in an unclaimed benefit fund interminably.

"Some beneficiaries are not even aware that a trust or beneficiary-fund account has been set up for them," points out Giselle Gould of Fairheads. This can happen if the contact details held by the retirement fund are out of date, or if the fund administrators lose touch with existing beneficiaries. It's particularly common with beneficiaries living in remote rural areas.

Also, contact can be lost when children experience a change of guardian.

The Pension Funds Act allows for unclaimed benefits to be transferred to an unclaimed benefit fund, managed by its own trustees and registered with the Financial Services Board and the SA Revenue Service. Being a fund requiring administration, monthly fees are paid for each member.

The sadness is that people who most need the money are those most difficult to trace, and they don't know there's money due to them.

As with surplus apportionment exercises, it can take considerable time and expense for a fund's former members to be traced. This too involves costs which, according to the rules of some funds, are paid by the member being traced.

David Weil, of ICTS Tracing Services, notes that the cost of tracing a member can exceed his or her benefits: "There's huge wastage, for example in placing newspaper advertisements. If the person doesn't read the particular newspaper on the particular day, or doesn't notice the ad, there'll obviously be no response."

How do you trace a beneficiary, Weil asks, when he has no credit facilities and his cellphone is pay-as-you-go? Or when he's left his employer 20 years previously, the company's been taken over and the fund is now part of another?

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Migrant workers are a case in point.

He is critical of trustees who reckon that, once they've stuck the money into an unclaimed benefit fund and embarked on a tracing process, consider their job is done:

Best estimates

NOBODY can reveal with certainty, or even accuracy, what the totality of unclaimed money is. Trifecta Capital Services puts it at about R80 billion, growing annually.

This is based on the market knowledge and experience of Trifecta in performing tracing services for banks, life offices and JSE-listed companies in search of depositors, policyholders and shareholders.

The R80bn estimate, adjusted for a little double counting, breaks into four main categories:

■ **Pension funds: R32bn, or 40 percent (partially overlapping with the retirement-annuity sector);**

■ **Shares: R27bn, or 30 percent (dividends and scrip and so on, subject to company and stock-market performance);**

■ **Insurance: R16bn, or 20 percent (life and other investment products, including retirement annuities, which overlap with the pension funds sector);**

■ **Banking: R8bn, or 10 percent (deposits in inactive or dormant accounts from which charges are deducted until there is a zero balance).**

Remarkably, there are no official figures. Moreover, the enthusiasm with which payouts are chased relies on the discretionary good-governance principles and service-orientation standards of respective institutions and companies.

Some, needless to say, are more committed than others.

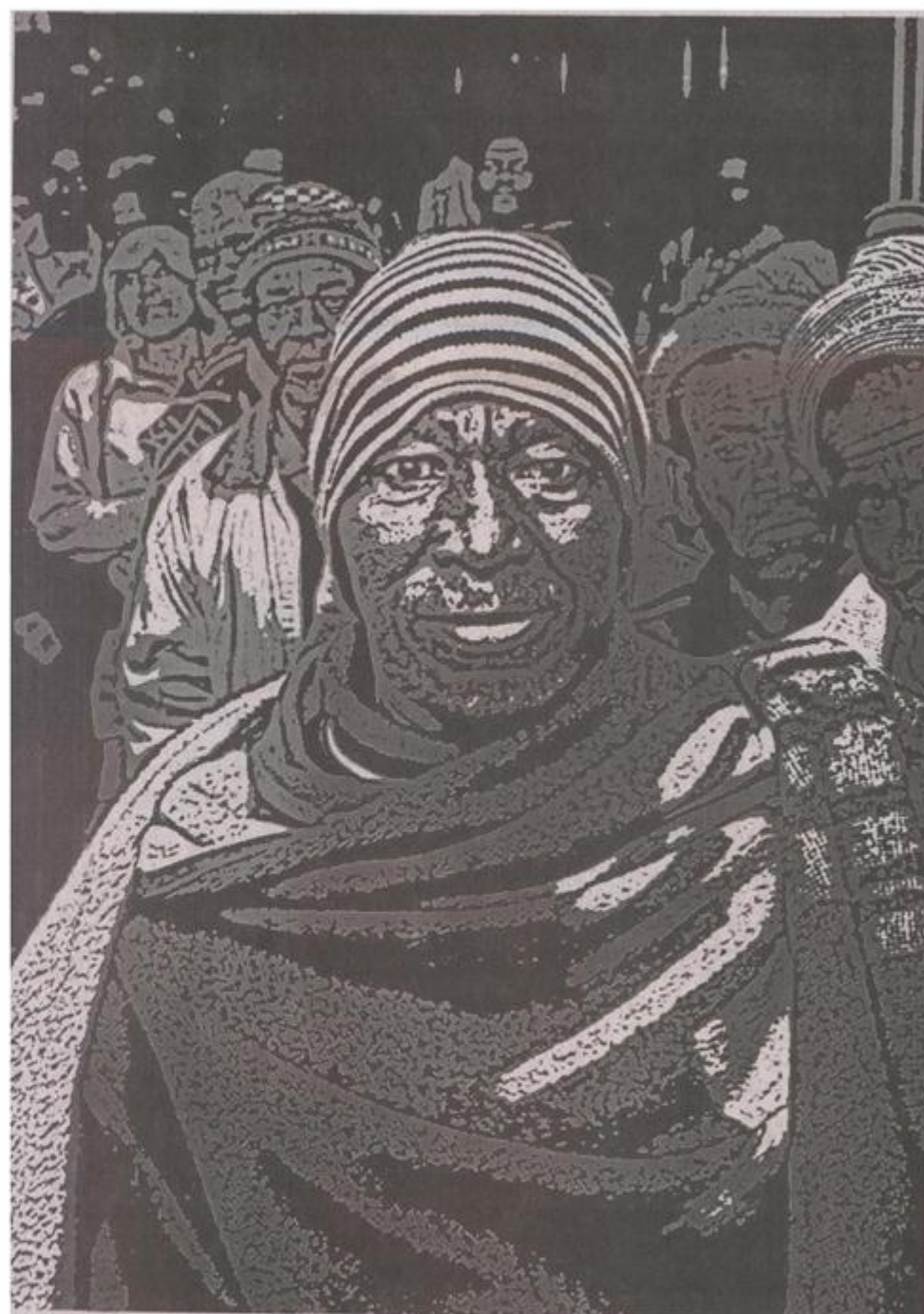
"It's an easy way for trustees to get rid of their liability and for administrators to make money. So long as the money sits in the UBF, they have an ongoing stream of fees."

Which implies there's little incentive for tracing to be successful. Many of the big administrators do their own tracing. Only a cynic might suggest that their stronger interest is to retain the money in an unclaimed benefit fund than to pay it out.

For all that, there are many successful tracing experiences. Andre van der Zee of Trifecta Capital Services mentions several touching examples, like the frail widow in a town being reunited with R237 000 that she didn't know had been left by her husband.

He says that Trifecta has returned more than R500 million in unclaimed pension fund benefits to beneficiaries. Across all categories of unclaimed benefits, Trifecta has facilitated the payment of over R200m to roughly 20 000 beneficiaries.

There are also many tracing experiences that aren't successful, and extremely frustrating. In one pension fund alone there is over R100m lying fallow in un-



claimed benefits after approval of its surplus-apportionment scheme. This defined-benefit fund has tried everything possible to find former members, from placing advertisements to engaging tracing agents and using social media, to no avail.

The most it could establish was that some had died, some had emigrated, and some preferred that the taxman didn't know about them.

Which begs a series of legal questions, such as whether funds must endlessly hold the surpluses of former members who will never be traced. The duty of trustees under

the Pension Funds Act is diligently to pay benefits in terms of their fund's rules. It leaves the funds sitting with piles of cash in unclaimed benefits inclusive of surpluses, years of interest, and dividends and capital growth with nowhere to go.

Something in the system is badly wrong. The niceties of regulatory theory have crashed into the realities of absurd consequences. What a waste.

Allan Greenblo is editorial director of Today's Trustee (www.totrust.co.za), a quarterly magazine mainly for trustees of retirement funds.