

Money missing, trust account frozen

Antoinette Slabbert / 18 November 2016 00:05



The South African Board for Sheriffs has laid charges of fraud and theft against the Sheriff for Alberton on the Gauteng East Rand after an inspector found in September that there was money missing from her trust account.

This comes as the Board dealt with 2 530 informal and 207 formal complaints against sheriffs in the previous financial year. In its annual report the Board states that the common areas in these complaints are theft of trust money, delay in payment of trust money, delay in serving processes (court documents) and delay in responding to correspondence.

Proceeds of sheriffs auctions, which often include fixed property to the value of millions, are paid into sheriffs' trust accounts and should ultimately be paid to the creditors of insolvent estates. Misappropriation could impact such transactions and raise legal questions about ownership that might only be resolved after protracted legal action.

Moneyweb has been told that at least one client of the Alberton sheriff Zodwa Seti is allegedly missing R2 million that was supposed to be held in trust in relation to a property transaction and that queries relating to her conduct total almost R17 million. The client asked not to be named.

Seti has since resigned as sheriff and a former employee told Moneyweb many people are looking for her. He says he also lent her money to help her pay salaries, but has not been able to recover the loan.

Moneyweb has not been able to get hold of Seti as her cell phone and landline numbers seem to have been disconnected.

The trust account has been frozen in terms of a court order, but Moneyweb has been told that clients without knowledge of the situation are still paying money into the account. Seti doesn't have access to the account anymore, but neither do the clients, which results in prejudice due to transaction delays.

In the meantime, the department of Justice has appointed the sheriff of Germiston North to act in Alberton. The website of the Alberton sheriff has, however, not been changed and anybody doing a Google search or accessing the website would be under the impression that Seti is still the sheriff.

Seti's resignation places her outside of the jurisdiction of the Board. The Board is nevertheless "investigating claims against the Fidelity Fund as a result of claims of misappropriation of trust funds by Ms Seti. The claims have also been lodged with our indemnity insurer."

Moneyweb has been told that the department of justice is managing the transfer of Seti's trust account to the acting sheriff and that it should be released soon. The transfer is also expected to address the out-dated website.

The board stated in its annual report that the high volume of complaints about the country's 285 sheriffs might indicate poor administration and systems in sheriffs' offices. Many queries are resolved by intervention by the board.

69% of the formal complaints were closed during the year. A total of 48 sheriffs were charged with improper conduct for failure to submit their trust audit reports. More than 40% of them pleaded guilty and paid fines totalling R154 000. These cases did not lead to prejudice to the public and compliance improved to a point where 99% of the sheriffs had submitted their reports by the end of last year.

Formal complaints that cannot be resolved result in disciplinary hearings.

The Board has recently improved its systems to include pro-active inspections of each sheriff's trust account at least once every three years in an effort to protect the public, the board stated.

Recent action by the board resulted in the conviction of two sheriffs.

The former acting sheriff for Sasolburg Thulane Simelane was arrested in April this year after the Board discovered that almost R2 million was missing from the trust fund. "Thereafter, we were informed that the National Prosecuting Authority has withdrawn the charges and despite making enquiries with the NDPP, the reasons for the withdrawal of the charges are unknown to us.

"The Board is investigating claims against the Fidelity Fund as a result of claims of misappropriation of trust funds by Mr Simelane. The claims have also been lodged with our indemnity insurer", the Board stated.

The Board in April brought criminal charges of theft against Liezl Gertze, sheriff of Bredasdorp for alleged theft of trust monies. The board also applied to the deputy minister of Justice for her removal as sheriff after two inspections of her office to verify complaints received for failure to pay over trust monies. "A disciplinary inquiry was held and she was found guilty and it was recommended she be removed from office", the board stated.