

Goals for 2010 & beyond

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2010 PLA CONFERENCE - SPIER - WESTERN CAPE
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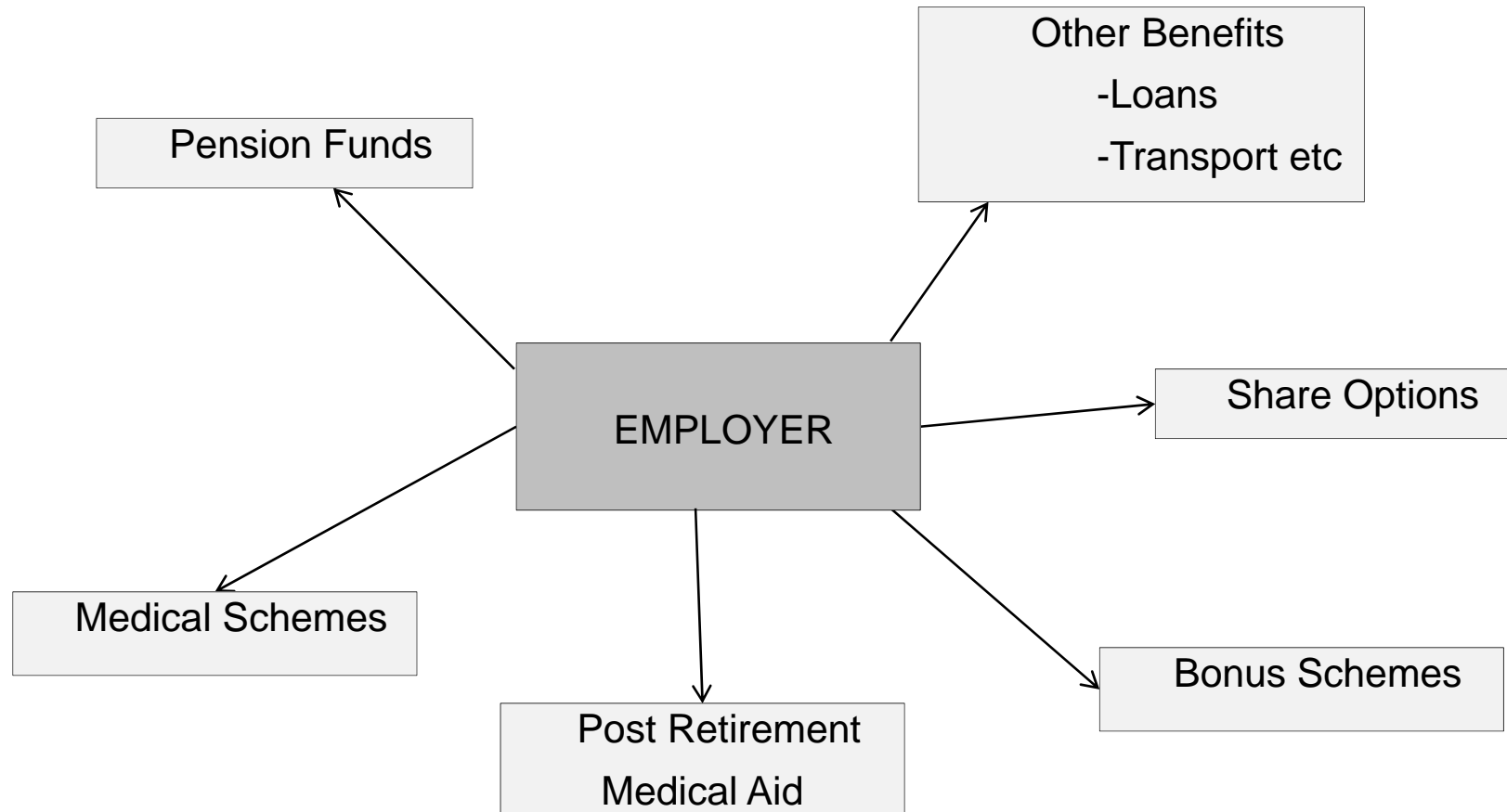
- Speaker* GRAHAM DAMANT
- Company* BOWMAN GILFILLAN INC
- Topic* WHAT HAPPENED TO EMPLOYER RIGHTS
IN PENSION FUNDS?

THE OVERSEAS EXPERIENCE

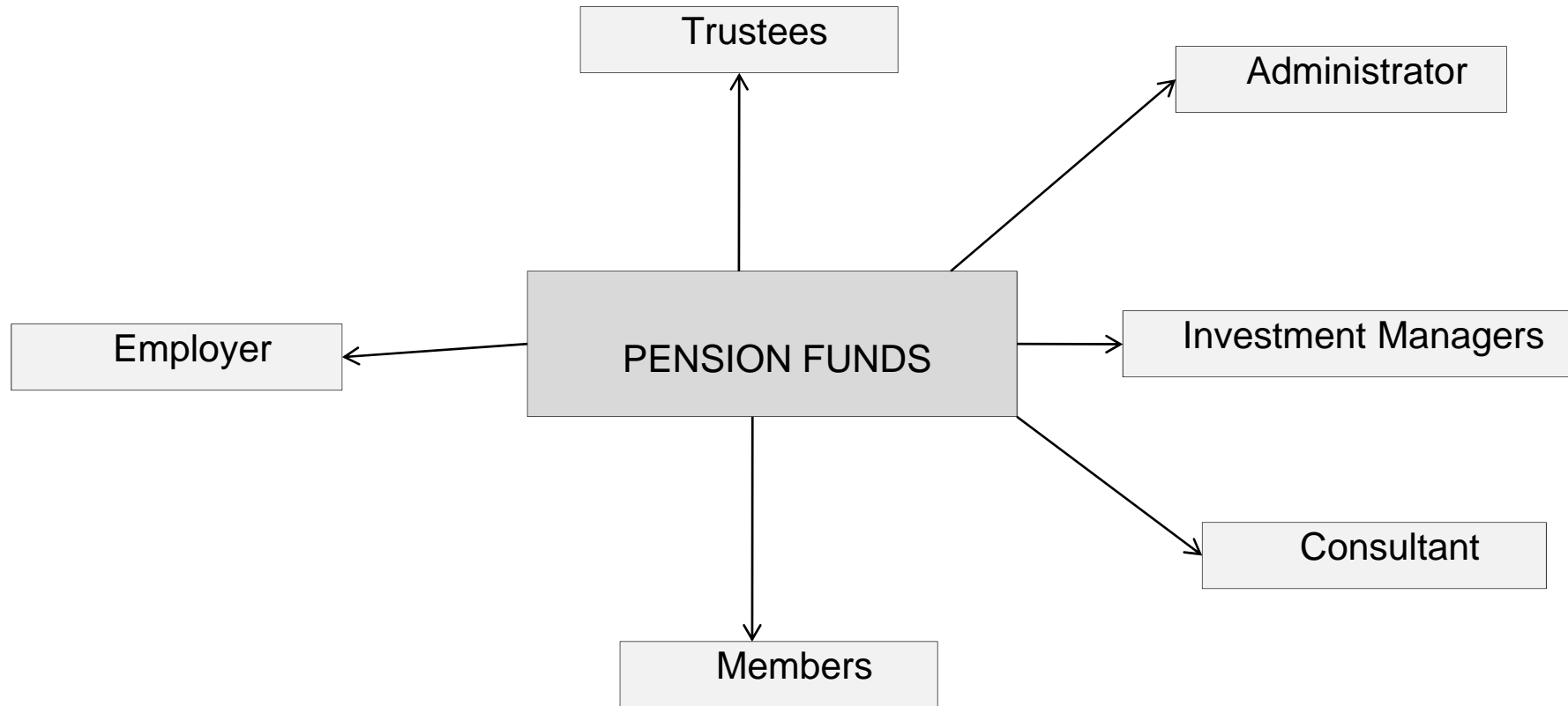
A. CLEAR DISTINCTION

- Employee Benefits Lawyers (Labour Law Department)
- Pension Lawyers

EMPLOYEE BENEFIT LAWYERS



PENSION LAWYERS



EMPLOYEE BENEFITS LAWYERS PROVIDE ADVISE TO EMPLOYER ON

- Obligations and rights
- Amending benefits
- Employment contract wording
- Tax structuring
- Different Schemes
- Improper use
- Surplus rights
- Legislative amendments
- Conflicts of interest
- Mergers and acquisitions

Dispute Handling:

- Unfair labour practice claims
- Discrimination claims
- Improper use claims
- Surplus issues
- Trustee conduct

PENSION LAWYERS PROVIDE ADVISE TO

Trustees

- Fiduciary duties
- Governance
- Rule amendments
- Amending benefits
- Investment policy
- Death benefit distribution
- Divorces and maintenance
- Deductions
- Regulators powers
- Surplus apportionment
- Reportable irregularities
- Contracts with administrator/others
- Insurance
- S14 transfers
- Tax
- Pension increase policy

Dispute Handling:

- Adjudicator complaints
- Appeals from Registrar
- High Court claims

PENSION LAWYERS PROVIDE ADVISE TO

Administrators, Investment Managers, Consultants, Actuaries and Auditors

- Contracts
- Liabilities
- Duties
- Errors and omissions
- Regulators power

Dispute Handling:

- Breach of contract claims
- Delictual claims
- Adjudicator complaints
- Regulator complaints

PENSION LAWYERS PROVIDE ADVISE TO

Members

- Rights

Disputes:

- Adjudicator complaints
- Investment choice
- Discrimination
- Rule amendments

THE SOUTH AFRICAN EXPERIENCE

Pre 2000's:

- The Industry
- The Law Firms:
 - Labour Lawyers
 - Trust Lawyers
 - Litigation Lawyers

KIND OF ADVICE

- Defined Benefits to Defined Contributions conversions
- Capping of Post Retirement Medical Aid
- Early Surplus Distribution

EMPLOYEE BENEFIT LAWYERS DEVELOPING EMPLOYER RIGHTS

Employer Centric View:

- The Pension promise
- Deferred pay?
- Wide Discretion (limited review)

THE 2000's

- The defection
- The Hybrid employee benefit/pension lawyer
- Not sufficient work for specialists
- Labour lawyer do not see employee benefits as labour law
- No longer developing jurisprudence
- Jurisprudence worse off as a consequence

WHAT ARE EMPLOYER ISSUE?

- Rights in future surplus distribution
- Rights in pension increase policy
- Right to change funds
- Right to amend benefits

Thank you