

Fiduciary experts discuss wills, estate planning, trusts and deceased estates

The Fiduciary Institute of Southern Africa (FISA) held its third annual conference on 19 September in Midrand where fiduciary practitioners and academics discussed issues in the fiduciary industry.

Fiduciary practice includes estate planning, the drafting of wills and the administration of trusts, beneficiary funds and deceased estates. The topics discussed included the winding-up of 'bloody' estates, corporate liability of trustees, wills and marital regimes and estate planning.

Speakers at the event included professor at the department of private law at the University of Pretoria, Linda Schoeman-Malan; estates and financial planning lecturer at the North West University, Anje Vorster and director and deputy dean of the law faculty at the University of the Western Cape, Professor Francois du Toit, the chief master of the High Court, advocate Lester Basson, fiduciary specialists Tiny Carroll, Ronel Williams, as well as head of the wills and deceased estates department at Routledge Modise Inc, Arnold Shapiro. Mr Shapiro is also the co-author of the lecture notes used for practical legal training at the Law Society of South Africa's Legal Education and Development department for courses on wills and the administration of deceased estates.

Ms Schoeman-Malan's presentation was titled 'Winding-up the "bloody" estate'.

Ms Schoeman-Malan proposed an



Head of the wills and deceased estates department at Routledge Modise Inc and co-author of the lecture notes used for practical legal training at the Law Society of South Africa's, Legal Education and Development department for courses on wills and the administration of deceased estates, Arnold Shapiro, speaking on wills at the annual conference of the Fiduciary Institute of Southern Africa.

amendment to the Wills Act 7 of 1953. She said that the amendment would clarify the position of potential heirs who are unworthy to inherit from the estate of a deceased person. She said that there has been a large number of cases where family violence could have the effect that a person who stood to inherit may be disqualified.

Ms Schoeman-Malan said that in the past, in common and case law, the Dutch maxim '*de bloedige hand neemt geen erfenis*', of which the direct translation is 'the bloody hand does not inherit, has been interpreted slightly differently depending on circumstances. She said that the mere fact that someone had been convicted in a criminal trial for actions that led to the death of the testator from whom the convicted person stands to inherit, did not automatically lead to unworthiness and added that a civil court case was mostly necessary.

Ms Schoeman-Malan proposed an amendment to the Wills Act by inserting a s 4B that would read as follows:

4B. Lack of competency of persons involved in the death of the testator

(1) Any person who intentionally or negligently causes or contributes to the death of the deceased, is unworthy to take any benefit from the estate of the deceased.

(2) Any person who causes or contribute to the death of the deceased is also unworthy to inherit from the spouse, chil-