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Please quote our reference: PFA/WE/6694/2005/NVC

Re: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24 of 1956 (“the Act”): S J Dlakavu (“the complainant”) v Chubb Group Retirement Fund (“the Chubb fund”) (“first respondent”), Chubb Alarms (Pty) Limited (“the second respondent”) and Alexander Forbes Group (Pty) Ltd (“the third respondent”)

1. Introduction

- 1.1 This complaint concerns the delay in the transfer of the complainant’s benefit, and subsequent refusal to pay the complainant a withdrawal benefit. The complaint was received on 8 December 2005. On 16 December 2005 letters were dispatched to the respondents requesting them to submit responses to your complaint by 6 January 2006. The responses were received on 28 December 2005. The employer copied you with its response. Your reply was received on 9 January 2006.
- 1.2 After considering the written submissions it is considered unnecessary to hold a hearing in this matter. The determination and reasons therefor appear below.

2. Complaint

- 2.1 The complainant was initially dissatisfied with the delay in the transfer of his fund credit from the Chubb fund to the Private Security Sector Provident Fund (“PSS Fund”) administered by NBC Holdings (Pty) Limited (“NBC”). He requested this tribunal to order the Chubb fund to pay him the benefit as it has failed to transfer the benefit. However, in

M Mhlala (Adjudicator), N Jeram (Deputy Adjudicator), C Nkuhlu (Snr Assistant Adjudicator), L Shrosbree (Snr Assistant Adjudicator), Z Camroodien (Snr Assistant Adjudicator), F Mtayi (Snr Assistant Adjudicator), K MacKenzie (Snr Assistant Adjudicator), R Maharaj (Snr Assistant Adjudicator), N van Coller (Assistant Adjudicator), L Mbalo (Assistant Adjudicator), V Abrahams (Assistant Adjudicator), S Gcelu (Assistant Adjudicator), T Nekile (Assistant Adjudicator), M Ramabulana (Assistant Adjudicator), N Sihlali (Assistant Adjudicator)

Office Manager: L Manuel

his reply to the responses, received by this office in January 2006, he advised that he was dismissed from Chubb on 2 December 2005, and is therefore no longer eligible for membership of the PSS fund, he wants to be paid his withdrawal benefit.

3. The First Respondent's response

- 3.1 The first respondent states that the last contribution it received on behalf of the complainant was 31 May 2005. The second respondent did not respond to the first respondent's enquiries regarding the termination of the contributions, but when this complaint was submitted, the second respondent informed the Chubb fund that the complainant was part of an internal transfer, with no break in service, from Chubb Electronic Security to Chubb Guarding, with effect from 1 June 2005.
- 3.2 The first respondent states that the complainant became a member of the PSS fund with effect from 1 June 2005 and his contributions have been paid since then to the PSS fund. The first respondent alleges that it was never informed of the transfer but it is now preparing for the transfer of the complainant's benefits to the PSS fund in terms of section 14 of the Act. The first respondent advises that the complainant's share in the first respondent is subject to investment return which will be applied until the benefit is transferred to the PSS fund. The first respondent contends that although there has been a delay in the transfer, the complainant will not be prejudiced thereby.
- 3.3 Further the first respondent states that the complaint against it should be dismissed as it has not been shown that it is guilty of maladministration or negligence.

4. Second respondent's response

- 4.1 Chubb states that it agrees with the response submitted by the first respondent. The second respondent acknowledges that it did not inform the first respondent fund of the transfer and it undertakes to assist in the preparation of the section 14 transfer.

5. Third Respondents response

- 5.1 In its response dated 5 February 2007, the third respondent states that there have been extensive delays in the transfer to the PSS fund due to administrative issues, but these have now been cleared up. It

undertakes to complete and send the section 14 documents to NBC by the end of February 2007.

- 5.2 The third respondent also states that the first respondent's credit amounted to R1 165.80 as at 1 June 2005 and as at 31 December 2006 it amounted to R1 854.87. Further third respondent adds that the complainants benefit will continue to grow until it is transferred to the PSS fund. Contributions made prior to this date to the first respondent's are to be transferred to the PSS fund on behalf of the complainant.

6. Determination and reasons therefor

- 6.1 The first issue for consideration is the delay in the transfer. The (employment) transfer of employees, including the complainant, from one section of Chubb, being Chubb Electronic Security to another, Chubb Guarding, occurred on 1 June 2005, at which time the second respondent commenced paying contributions to the PSS fund. Contributions made prior to this date to the first respondent were to be transferred to the PSS fund on behalf of the complainant. However, now that the complainant has left the service of the second respondent, he is entitled to a withdrawal benefit, since he may no longer transfer to the PSS fund. Regardless of numerous efforts, the third respondent has not responded to this office's further enquires with regard to the payment of the complainant's withdrawal benefit by the first respondent. It is therefore appropriate to order a time frame within which the withdrawal benefit should be paid to the complainant.
- 6.2 As contributions have been made to the PSS fund on behalf of the complainant from 1 June 2005 up to the date of the complainant's dismissal on 2 December 2005, the complainant may well be entitled to an additional benefit from that fund. However, that was not the initial complaint presented or submitted, and for that reason the PSS fund has not been cited as a respondent. The complainant is welcome to submit a fresh complaint in this regard.

7. Relief

- 7.1 in the result the order of this tribunal is as follows:

7.1.1 The First Respondent is hereby ordered to pay the complainant any withdrawal benefit to which the complainant is entitled in terms of the fund rules **within two weeks** of the date of this determination, together with interest thereon

calculated at 15.5% per annum from 2 January 2006, being one month after the complainant's date of resignation from the second respondent on 2 December 2005, until the date of payment.

Dated at Cape Town on this the day of 2007.

Yours faithfully

MAMODUPI MOHLALA
PENSION FUNDS ADJUDICATOR