



HEAD OFFICE  
Johannesburg  
2nd Floor, Sandown House  
Sandton Close 2, Sandton, 2196  
PO Box 651826, Benmore, 2010  
Tel (011) 884-8454 □ Fax (011) 884-1144  
E-Mail: [enquiries-jhb@pfa.org.za](mailto:enquiries-jhb@pfa.org.za)

Cape Town  
2nd Floor, Oakdale House, The Oval  
Oakdale Road, Newlands, 7700  
P O Box 23005, Claremont, 7735  
Tel (021) 674-0209 □ Fax (021) 674-0185  
E-mail: [enquiries@pfa.org.za](mailto:enquiries@pfa.org.za)  
Website: [www.pfa.org.za](http://www.pfa.org.za)

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Please quote our reference: PFA/GA/7014/2005/FM

**RE: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24, OF 1956 (“the Act”): W STEVENS v CENTRAL RETIREMENT ANNUITY FUND (“the fund”)/ SANLAM LIFE INSURANCE LIMITED (“Sanlam Life”)**

Introduction

- [1] This complaint, received by this office on 8 December 2005, concerns your dissatisfaction with the projected maturity values provided by Sanlam in respect of the underlying policy of insurance issued by Sanlam to the fund, owing to your membership of the fund.
  
- [2] In December 2005 an announcement was made of a Statement of Intent between the Minister of Finance, on the one hand, and the Life Offices Association and five large life assurers on the other, in terms of which the life assurers would commit themselves to certain minimum standards in respect of retirement annuity funds and endowment policies. Although the statement is not binding on this office, we nevertheless referred all retirement annuity fund complaints (including this one) back to the management boards and life assurers administering these funds with a view to facilitating an amicable resolution of the complaint between the parties without the intervention of this office. This matter was referred for settlement to both the fund and Sanlam on 8 March 2006. The parties were given 30 ordinary days of the date of the letter to settle the matter failing which this office would determine the complaint in the ordinary course. Many complaints were settled on this basis but the settlement terms were not divulged to this office. However, on 7 April 2006 we were informed that

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M Mohlala (Adjudicator), C Nkuhlu (Snr Assistant Adjudicator), F Mtayi (Snr Assistant Adjudicator), K MacKenzie (Snr Assistant Adjudicator), R Maharaj (Snr Assistant Adjudicator), M Ndaba (Snr Assistant Adjudicator), M Daki (Snr Assistant Adjudicator), E de la Rey (Snr Assistant Adjudicator), N van Coller (Assistant Adjudicator), L Mbalo (Assistant Adjudicator), S Gcelu (Assistant Adjudicator), M Ramabulana (Assistant Adjudicator), N Sihlali (Assistant Adjudicator), S Mothupi (Assistant Adjudicator), P Mphephu (Assistant Adjudicator), C Seabela (Assistant Adjudicator), P Myokwana (Assistant Adjudicator), L Nevondwe (Assistant Adjudicator)

Office Manager: L Manuel, Financial Manager: F Mantsho, Accountant: R Soldaat

the parties in this complaint had failed to reach a settlement in this case. The details of disagreement were not communicated to us. It is with that brief background that we now determine this complaint in the ordinary course. Having considered the written submissions before me, I consider it unnecessary to hold a hearing.

- [3] As the background facts are well-known to all parties, I shall only repeat those facts that are pertinent to the issues raised herein.

#### Facts in brief

- [4] You were a member of three retirement annuity funds underwritten and administered by Sanlam Life under the aegis of the fund.
- [5] You became a member of the fund under policy number 9551300x8 on 1 May 1987 and your selected retirement date was 1 May 2004. At inception of fund membership, your contributions were in the amount of R291.01 per month which was to escalate in line with the inflation rate on 1 May of each succeeding year. Your assets in the fund were invested in Sanlam Life's Balanced Fund. The retirement benefit is determined by the actual growth of the investment during the period of membership. On your retirement in 2004 you were paid a benefit of R311 877.45.

On 1 November 1991 you assumed membership of the fund under policy number 12272094x9 and your selected retirement date was 1 November 2004. Your initial monthly contributions to the fund were in the amount of R100.00 which was to increase by 10% on each policy anniversary. Your assets in the fund were invested in Sanlam Life's Stable Bonus Series. The retirement benefit is determined by the actual bonuses during the duration of fund membership. Your benefit at retirement in 2004 was in the amount of R41 066.08.

You joined the fund under policy number 3516667x7 on 1 October 1978 and your selected date of retirement was 1 October 2004. You made monthly contributions to the fund in the amount of R85.00. Your assets in the fund were invested in Sanlam Life's Reversionary Bonus Series. In terms of this arrangement, the investment grows annually by means of reversionary (vesting) and claim (non-vesting) bonuses. The non-vesting claim bonuses are determined on the date of retirement and together with the vesting reversionary bonuses form the actual retirement benefit. On reaching your selected retirement date, you were paid a benefit of R166 996.02.

#### Complaint

- [6] Firstly, you are aggrieved by the value of the retirement benefit generated by the three funds. Your bone of contention appears to stem from the fact

that the value of such benefit is less than the values illustrated by Sanlam Life at both inception and during the period of your fund membership. In the second instance, you want Sanlam Life to disclose the charges that were deducted from the contributions paid into the fund.

- [7] You state that in 1997 Sanlam Life provided you with the following illustrative maturity values:

	<u>Low</u>	<u>High</u>	<u>Actual Payout</u>
"1) Policy No. 3516667x7	R209890-00	R209890-00	R166996-00
2) Policy No. 9551300x8	R438992-00	R525477-00	R309631-09
3) Policy No.12272094x9	R50691-00	R60221-00	R41066-08
	<b>R699573-00</b>	<b>R795588-00</b>	<b>R517693-17"</b>

You contend that Sanlam's projected maturity values in respect of all the policies have dropped by 26% in respect of the low inflation projection and by 35% in respect of the high inflation scenario compared to the amounts actually paid to you.

- [8] In your own words, you state: "I believe SANLAM was blindsiding me for years with their Illustrative Maturity Values and with their premium growth benefits... I do not believe that SANLAM put my interests on even the same level as their own"
- [9] You seek that I investigate "these drastic decreases between the Illustrative Values and actual payout and to negotiate a much better payout than what I have received".

### Response

#### The fund

- [10] The fund in its response only submits that it and the administrator acting as the fund's agent, have acted in accordance with the rules of the fund, the Act, the Income Tax Act, the Statement of Intent between the Treasury and the life assurers and have fulfilled the fund's duties owing to you as a member of the fund.

#### Sanlam Life

- [11] Sanlam Life contends that the illustrative rates provided in the policy contracts are not determined by it but by the Life Offices Association (LOA) to which all assurance companies are affiliated. Sanlam further argues that the illustrative rates are not guaranteed and merely serve as an indication of what a policyholder can expect at maturity of the policy should the actual bonus rates/growth rates remained the same as the illustrative rates during the subsistence of the policy term.

- [12] As substantiation for its argument, Sanlam refers me to the policy document in respect of policy 9551300x8, the relevant part of which reads:

“The illustrative values in this statement are not guaranteed. They are shown at two assumed investment growth rates to illustrate the sensitivity of the eventual proceeds to the investment growth actually achieved...

Illustrative values in this quotation are subject to the following, and calculated on the following assumptions:

- The inflation rate will be 10,00 per cent per annum and that premiums and benefits will be adapted as stated
- A standard investment growth of
  - 10,00 per cent pa gross
  - 8,80 per cent pa net after deduction of costs, and (sic)
- A performance investment growth of
  - 15,90 per cent pa gross
  - 14,70 per cent net after deduction of costs
 will be experienced”.

- [13] To further give credence to its argument regarding illustrative values, Sanlam Life again cites the policy document relative to policy 12272094x9, specifically the section under “PROVISOS AND ASSUMPTIONS”, part of which reads:

“Information supplied in this statement is subject to the provisions of the policy. The actual benefits provided by the policy shall be determined by the actual bonus rates, cost recoveries and bases of calculation applicable from time to time. The purchasing power of the premium and the illustrative values will depend on the inflation rate for the duration of the policy... (my emphasis)

The illustrative values in this statement have been calculated in accordance with the benefit illustration agreement of the LOA and are not guaranteed. They are shown at two assumed bonus rates to illustrate how a difference in bonus rates will influence the actual proceeds”.

- [14] Sanlam states that the LOA has, since May 2002 changed the basis of its benefit illustration agreements mainly to quote realistic figures and not to create false expectations among the clients of the life assurers.
- [15] In the ultimate analysis, Sanlam Life argues that your policy values had been calculated according to the rules that an insurer must have and apply, and which must be approved by its statutory actuary pursuant to the provisions of sections 46 and 52(3) of the Long Term Insurance Act. Sanlam further avers that it acted in accordance with the fund rules and the provisions of the policy document.

