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

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
Website: www.pfa.org.za

Please quote our reference: PFA/WE/6324/2005/NVC

DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24 of 1956 ("the Act"): B Nqabisa ("the complainant") v Stocks Civils Employee Saving Scheme/Provident Fund ("the first respondent"), WBHO Provident Fund ("the second respondent") and WBHO Construction Limited ("the third respondent")

1. Introduction

1.1 The complaint concerns the amount received in pension benefits from the above funds, which are considered insufficient.

1.2 The complaint was received on 8 November 2005 and a letter acknowledging receipt thereof and requesting further information was sent to the complainant on 15 November 2005. As it was not clear which fund the complainant cited as the respondent, letters were dispatched to Old Mutual Life Assurance Company (South Africa) Limited ("Old Mutual") on 8 December 2005 and to Wynne–Jones and Company Employee Benefits Consultants (Pty) Limited ("Wynne-Jones") on 16 May 2006, requesting them to submit responses to the complaint respectively by 29 December 2005 and 6 June 2006. Old Mutual's response was received on 25 January 2006. On 29 November 2006 the response was sent to the complainant for a reply by 14 December 2006. No reply has been received from the

M Mohlala (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), S Mothupi (Assistant Adjudicator)

Office Manager: L Manuel

complainant. A telephonic response was obtained from Wynne-Jones on 24 January 2007. Further responses were requested and received from WBHO, Investec Asset Management ("Investec"), Liberty Group Limited ("Liberty"), Sanlam Life Insurance Limited ("Sanlam") and the Financial Services Board ("FSB").

1.3 After considering the written submissions, it is consider unnecessary to hold a hearing in this matter. My determination and reasons therefor appear below.

2. Complaint

2.1 The complainant states that the only benefits he received was R12 542.85, being his own contributions, paid to him in 2003 and R15 821.36, paid to him in 2004, being the employer's contributions. It is unclear in the complaint from which funds these benefits were paid, or for what reason (withdrawal, retirement and so forth) the complainant became entitled to these benefits. The complainant states that he was still owed a substantial sum of money as he worked for 27 years. The complainant wants this office to assist him in retrieving the money due to him by the funds to which he belonged.

3. The response

3.1 According to Old Mutual, it does not have a record of the complainant's participation in a fund prior to 1991. Old Mutual states that the first respondent came into existence on 1 August 1991 and the complainant became a member of the first respondent on that date. On 28 February 1999 the complainant's accumulated credit in the first respondent amounted to R15 639.34. The administration of the first respondent was then taken over by Fedsure.

3.2 As Fedsure funds were subsequently taken over by Investec and thereafter by Liberty, this office contacted the latter entities to ascertain if the amount from the first respondent, reported by Old Mutual, was paid to the complainant. Liberty advised this office on 2 April 2007 that in fact R10 665.75 was transferred on the complainant's behalf by the first respondent, and not R15 639.34 as contended by Old Mutual, and from 1 March 1999 to 31 October 2001 a further amount of R8 029.01 was contributed on the complainant's behalf by the employer. Liberty states that the amount paid to the complainant was calculated as follows (the date of payment has been established as 27 February 2004):

"Transfer amount	R10 665.75
Plus employer contributions	R 8 029.01

Plus interest	R 204.45
Total	R18 899.21
Less tax	R 3 077.85
	R15 821.36"

3.3 Wynne-Jones advises that contributions were received on the complainant's behalf in respect of the first respondent from 1 March 1999 until his withdrawal on 31 October 2001. It states that he received R14 033.82, less tax of R1 490.00, thus R12 543.82 on 29 November 2002. From the evidence, the payment represented the member contributions.

3.4 Wynne-Jones also advises that the first respondent became the second respondent when the employer was taken over by WBHO in November 2001. According to Wynne-Jones the complainant received a further benefit of R2 396.68 in respect of the contributions that he made to the second respondent from November 2001 to June 2002.

3.5 WBHO confirms the information provided by Wynne-Jones.

4. Determination and reasons therefor

Membership from 1991 to 2002

4.1 From the evidence, including a letter dated 6 August 2004 from the complainant's former employer, WBHO, addressed to the complainant's representative, L Mazitshana, and due to the complainant's own acknowledgment, I am satisfied that he received amounts of R12 542.85 in 2003, representing the member contributions, and R15 821.36 in 2004, representing the employer contributions plus the transfer amount of R10 665.75, which was transferred from the administration of Old Mutual to Wynne-Jones. These payments were in respect of the complainant's membership in the first respondent from 1 August 1991 to 31 October 2001. Based on the complainant's membership from 1 November 2001 to 30 June 2002, a further benefit of R2 396.68 was paid to the complainant by the second respondent, administered by Wynne-Jones. The various administrators of the first respondent, Old Mutual, Liberty and Wynne–Jones, as well as the complainant's former employer, WBHO, have confirmed payment of the contributions the complainant and the employer made to the first respondent from 1991 until 2002.

Membership prior to 1991

4.2 It appears that the complainant is dissatisfied about not receiving benefits, or receiving insufficient benefits based on membership of a fund prior to

1991. The complainant has submitted documents relating to his membership of the Peter Faber Group Pension Fund, administered by Sanlam in respect of membership from 1 March 1979. My assistant contacted Sanlam in this regard and was advised by electronic mail on 31 January 2007 that the Peter Faber Group Pension Fund was dissolved in 1994, and that Sanlam is unable to trace the complainant on its records. The FSB confirmed by electronic mail on 6 February 2007 that it also has no record of this fund. I cannot investigate a claim against an entity if it no longer exists. From the documents that the complainant submitted it appears that a refund of contributions of R18 677.79 in respect of the former Peter Faber Group Pension Fund was paid to him by cheque number 836 in 1992. This is the extent of the information that this office is able to uncover concerning the complainant's membership of a fund prior to 1991.

5. Relief

5.1 It appears that no further avenues exist to pursue the complainant's allegations, and the complaint is dismissed.

Dated at Cape Town this day of 2007.

Yours faithfully

MAMODUPI MOHLALA
PENSION FUNDS ADJUDICATOR