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**IN THE TRIBUNAL OF THE PROVIDENTFUNDS ADJUDICATOR
(HELD IN JOHANNESBURG)**

CASE NO: PFA/GA/20313/07/MN

In the complaint between:

**PRIVATE SECURITY SECTOR
PROVIDENT FUND**

Complainant

and

PREFER SECURITY

First Respondent

**DETERMINATION IN TERMS OF SECTION 30M OF THE
PENSION FUNDS ACT, 24 OF 1956 (“the Act”)**

1. Introduction

[1.1] The complaint concerns the alleged refusal of the respondent (PREFER SECURITY SERVICES) to join the Private Security Sector Provident Fund. The complaint was received by this office on 27 July 2007. A letter acknowledging receipt thereof was sent to the complainant on 11 December 2007. On the same date a letter was dispatched to the respondent giving them 11 January 2008 to file their response to the complaint. A response was received from the respondent on 11 January 2008.

[1.2] After reviewing the written submissions, it is considered unnecessary to hold a hearing in this matter. The determination and reasons thereof appear below.

2. Factual Background

[2.1] The complainant was established in terms of the Sectoral Determination for the private security sector industry as contained in a Government Notice number R306 of 30 March 2001 (“ the government notice”) as amended by Government Gazette number R331 of 25 October 2002.

[2.2] According to the Sectoral Determination, employers who participated in a registered fund prior to the publication of the government notice or had prior to 30 March 2001, consulted with employees about establishment of a pension or provident fund were exempted from participating with the applicant.

[2.3] The Sectoral Determination states that the Management Committee will consider all applications for exemptions and provides for the modalities upon which such applications are to be considered. It provides that, if an exemption is granted, an exemption certificate will be issued, and if it is refused, reasons will be given to the applicant for not granting the exemption.

3. The complaint

[3.1] The complainant requested an order that:

[3.1.1] PREFER SECURITY SERVICES CC be prohibited from applying for liquidation of the business.

[3.1.2] PREFER be compelled to register within 7 days and join PSSPF.

4. The respondent's response

[4.1] The response was submitted by the PREFER SECURITY SERVICES. They indicated that they had joined the Penpro Administrators Pension and Provident Fund in September 2002 .

[4.2] They attached confirmation of their membership to Penpro for the years 2002 to 2008 .

5. Complainants reply

[5.1] The complainant replied on the 12 March 2008 and said the following :

“Please be advised that pending resolution of the matter we cannot confirm whether further submissions will be made ...the employer is hereby advised to apply for an exemption from the Fund.”

[5.2] The complainant listed all the requirements that have to be fulfilled in order to apply for an exemption .

