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Our Reference: PFA/WE/4811/2005/SG

Re: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24 OF 1956 – M Bobozayo (“the complainant”) v Amalgam Defined Benefit Pension Fund (“the first respondent”)/ Liberty Group Limited (“the second respondent”)

1. Introduction

- 1.1 This matter concerns the amount of the benefit that a member of the first respondent received upon his retirement from employment.
- 1.2 The complaint was received by this office on 8 July 2005, and a letter acknowledging receipt thereof was sent to the complainant on 1 February 2006. The response to the complaint, which was forwarded to the complainant, was received by this office on 27 February 2006.
- 1.3 After considering the written submissions, it is considered unnecessary to hold a hearing in this matter. The determination and reasons therefore appear below.

2. Complaint

- 2.1 The complainant is an erstwhile member of the first respondent.

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

- 2.2 The essence of the complaint is that when the complainant exited the first respondent as a result of retirement he was not paid his benefit in full and is contending that he is entitled to a greater benefit.
- 2.3 The complainant states that prior to his exit from the first respondent he made enquiries to ascertain the amount of the retirement benefit that he would receive from the first respondent. He further states that he was informed by the first respondent that the benefit to which he was entitled is in the amount of R 40 000.00. The complainant states that he was paid a benefit of R 13 000.00, a far cry from what he was promised.

3. Fund Response

- 3.1 The first respondent contends that the complainant was paid his benefit in full and in terms of its rules. It further states that Rule 4.1 which governs the payment of the complainant's benefit stipulates that at retirement the benefit to which he is entitled is equal to $1/600^{\text{th}}$ of his final salary for each completed month of pensionable service.
- 3.2 The first respondent submits that he received a total benefit of R41 426.00. It further submits that this is the amount of the total benefit that he were informed that he would receive. The first respondent submits that the complainant elected to commute the maximum one-third of his benefit in the amount of R13 808.92 and that this is the amount that he received in cash. It is submitted by the first respondent that the remaining two-thirds of the benefit in the amount of R27 617.08 was utilised to purchase a pension for the complainant. In addition, an amount of R863.38 which represents the late payment interest was paid to the complainant on 17 November 2005.

4. Determination and the reasons therefor

- 4.1 The complainant's benefit was paid in terms of the first respondent's rule which stipulates that at retirement he is entitled to $1/600^{\text{th}}$ of his final salary for each completed month of pensionable service. As at the date of retirement, the complainant's actuarial reserve in the first respondent was R 41 426.00. The complainant commuted the maximum of one-third of his benefit in the amount of R 13 808,92 for a cash lump sum. The remainder of the amount of the complainant's benefit was utilised to purchase a pension which he receives monthly.
- 4.2 This tribunal is satisfied that the complainant was paid his benefit in full and in terms of the rules of the first respondent. It appears that the complaint stems from the misapprehension that the amount of R13 808,

92 represents the full amount of the complainant's benefit. This is not so. As aforesaid, the total amount of the benefit the complainant received is R41 426,00 of which he commuted for cash the amount of R13 808,92 and the remainder was utilised to purchase a monthly pension.

5. Relief

5.1 In the result, the complaint cannot succeed.

SIGNED AT CAPE TOWN ON THIS DAY OF 2008.

Yours faithfully

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MAMODUPI MOHLALA
PENSION FUNDS ADJUDICATOR