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Please quote our ref: PFA/GA/10716/2006/EMD

RE: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24, 1956 (“the Act”): NA SIBANYONI (“the complainant”) v LOUIS PASTEUR PROVIDENT FUND (“the first respondent”) / LIBERTY GROUP LIMITED (“the second respondent”) / HOLLARD ADMINISTRATION SERVICES (PTY) LIMITED (“the third respondent”)

1. Introduction

1.1 This complaint was received by this office on 22 September 2006 and it concerns the withdrawal benefits payable to a member of the respondent fund upon resignation from the service of Louis Pasteur Private Hospital.

1.2 On 13 October 2006, a letter acknowledging receipt was sent to the complainant. On the same day a letter was dispatched to the second respondent requesting it to submit a response to the complaint by no later than 13 November 2006. The response received was dated 2 November 2006 and received on 3 November 2006. The complainant responded on 26 December 2006. On 8 February 2007, the complaint was submitted to the third respondent for a response by no later than 9 March 2007. A response was received on 7 March 2007 and further details of the payment made, on 9 March 2007.

1.3 Having considered the written submissions filed before this tribunal, it

M Mhlala (Adjudicator), N Jeram (Deputy Adjudicator), C Nkuhlu (Snr Assistant Adjudicator), L Shroobree (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

is considered unnecessary to hold a hearing in this matter. The determination and reasons therefor appear below.

- 1.4 As the background facts are well-known to all parties, these shall be repeated only to the extent that they are pertinent to the issues raised herein.

2. Facts in brief

- 2.1 The complainant was employed by the Louis Pasteur Private Hospital, where she contributed to the first respondent. She resigned on 31 May 2006. When, after about three months, she had not received her withdrawal benefits, she requested the assistance of this office.
- 2.2 Second respondent was initially the administrator of the first respondent, but this function was taken over by third respondent on 25 November 2005.
- 2.3 On 13 December 2006, an amount of R79,816.30, less tax of R14,042.88, giving a net amount of R65,773.15, was paid to the complainant by the second respondent, thus disposing of the initial complaint.

3. Complaint

The complainant's initial complaint was non-payment of her benefit. When, after enquiries from this office, the benefit was paid, the complainant expressed her dissatisfaction with the amount of R65,773.15, transferred in December 2006, as she had estimated the gross amount due to have been about R89,000 instead of the amount of R79,816.30. She specifically noted that she commenced employment with the Louis Pasteur Private Hospital on 1 January 1996, but that no contribution from that date until 1998 had been remitted by the employer to the first respondent.

4. Second Respondent's Response

- 4.1 The second respondent stated that the administration of the first respondent had been transferred to the third respondent with effect from 1 November 2005.
- 4.2 The contribution and benefit schedule as at 1 November 2005 attached to the response, shows the complainant's equishare as amounting to R44,851.02.
- 4.3 The second respondent also stated that the benefit had to be

calculated and paid by the third respondent, as second respondent held no administrative records nor assets of the first respondent.

5. Complainant's response

5.1 The complainant acknowledged having received R71,511.21 before tax from Hollard, but pointed out that the statement from third respondent shows contributions received from 1 January 1998, whereas she started working on 1 January 1996. She estimated her claim to be about R89,000.

6. Third respondent's response

6.1 Third respondent explained that the delay was due to inadequate information being provided by the second respondent upon the transfer of the administrative duties. Once this had been addressed, payment was made.

6.2 In a further response, it was explained that the total amount of R65,773.15 had been paid to the complainant in two portions, R2,697.22 on 1 January 2006 (which date was probably June 2006) and R63,075.93 on 8 December 2006, the so-called Liberty and Hollard portions being paid separately.

7. Complainant's further submissions

7.1 The complainant was requested telephonically to submit further documentary substantiation that she had contributed to the first respondent from 1 January 2006 to 31 December 2007, or that she had been a member of the first respondent during that period.

7.2 On 12 September 2007 she submitted an extract from the Payroll Deductions Register of the Louis Pasteur Hospital dated 6 May 1996. The statement does not reflect any pension or provident fund deductions.

7. Determination and reasons therefor

7.1 After enquiries were made by this Office, the complainant's benefits were paid out.

7.2 There remains uncertainty about the date on which the complainant started contributing to the first respondent fund.

7.3 As stated, an extract from the Payroll Deductions Register of the Louis Pasteur Hospital dated 6 May 1996 does not reflect any pension or

