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Please quote our ref: PFA/GA/16000/2007/EMD

**RE: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT 24, 1956 (“the Act”): T J MOKWENE (“the complainant”) v THE PRIVATE SECURITY SECTOR PROVIDENT FUND (“the first respondent”) / NBC HOLDINGS (PTY) LIMITED (“the second respondent”) / NAPHRONICS (PTY) LIMITED (“the third respondent”)**

1. Introduction

- 1.1 This complaint, received by this office on 28 June 2007, concerns payment of withdrawal benefits where the employer’s contributions to a provident fund are in arrears.
- 1.2 On 19 November 2007, a copy of the complaint was sent to the respondent, which responded on 4 December 2007.
- 1.3 Having considered the written submissions filed before this tribunal, it 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.

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M Mohlala (Adjudicator), C Nkuhlu (Snr Assistant Adjudicator), Z Camroodien (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), M Qhali (Assistant Adjudicator),

Office Manager: L Manuel, Senior Accountant: F Mantsho

## 2. Facts in brief

2.1 The complainant was employed by the third respondent. During his employment his employer was in terms of a sectoral determination bound to deduct a prescribed amount from his wages and remit this amount, together with its own contribution, regularly to the first respondent.

2.2 Upon termination of his employment, the complainant claimed his benefit from the second respondent, as administrator of the first respondent. As the employer had failed to remit contributions to the first respondent on time, the administrator was unable to pay the full benefit due to the complainant.

## 3. Complaint

The complainant seeks payment of his withdrawal benefits for his period of employment from December 2003 until February 2006.

## 4. First and Second Respondents' Response

4.1 The second respondent investigated the complaint and states that the third respondent *is non compliant in terms of section 13A of the Pension Funds Act*. In the result, they are unable to update the complainant's records and settle his full withdrawal benefits until the third respondent has brought its contributions up to date.

4.2 The second respondent further confirmed that the first respondent had laid a complaint with this office for the recovery of outstanding contributions and the submission of schedules. The relevant case number is PFA/GA/ GA/14693/2007.

## 5. Determination and reasons therefor

5.1 The second respondent has submitted a complaint to this office for the recovery of outstanding contributions and the submission of schedules for the period from 30 November 2004 until 31 May 2007, under case number PFA/GA/ GA/14693/2007.

5.2 It has come to the notice of this office that judgment was granted in favour of the first respondent against the third respondent on 10 August 2007 in the matter of *The Private Sector Security Provident Fund (sic) v Naphtronics (Pty) Limited and Private Security Industry Regulatory Fund* Bophuthatswana Provincial Division Case No 971/05. The judgment included an order for the delivery of contribution

