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Our reference: PFA/WE/3636/2005/SG

**Re: DETERMINATION IN TERMS OF SECTION 30M OF THE PENSION FUNDS ACT, 24 OF 1956 (“the Act”): R C Diedericks v Newlyn Group Pension Fund / Sanlam Life Insurance Limited**

Introduction

[1] The complaint relates to the amount of the withdrawal benefit that the member received when he exited the fund. The complaint was received by this office on 30 May 2005, and a letter acknowledging receipt thereof was sent on 6 June 2005. After considering the written submissions before me, I consider it unnecessary to hold a hearing in this matter. My determination and reasons therefor appear below.

Complaint

[2] You were employed by Uniroute Logistics and became a member of the Newlyn Group Pension Fund (“the fund”). You exited the fund on 31 January 2005, and your withdrawal benefit was transferred to the South African Retirement Annuity Fund.

[3] You are not satisfied with the amount of the benefit you received, and contend that you are entitled to a greater benefit. You contend that the full portion of the employer’s contributions was not paid out to you.

Response

[4] The fund contends that you were paid your benefit in full, and in terms of its

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V Ngalwana (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), J Mabuza (Assistant Adjudicator), V Abrahams (Assistant Adjudicator), S Gcelu (Assistant Adjudicator), T Thabethe (Assistant Adjudicator), M Ramabulana (Assistant Adjudicator)

Office Manager: L Manuel

rules. According to the fund, when you exited, you were entitled to your member's share of the fund as provided for in Rule 7.1 of the fund's rules. The fund goes on to state that the employer's contributions of 9,5 % of the member's pensionable salary were applied towards funding the cost of risk benefits payable in terms of the Newlyn Group Life Insurance Scheme and towards the premiums in respect of disability cover. The fund concludes that even though the employer's contribution rate was the highest than yours, only the balance remaining after provisions was made for risk benefit costs, was applied towards retirement funding.

### Determination and reasons therefor

- [5] Your benefit was paid in terms of Rule 7.1 of the rules of the fund, which provides:

"If a MEMBER's service with the EMPLOYER is terminated before the NORMAL RETIREMENT DATE (whether voluntarily by the MEMBER or as a result of retrenchment, redundancy, dismissal or any other reason), and he/she is then not entitled to retirement benefits from the FUND, he/she may choose in writing in the prescribed format that the whole or a portion of the MEMBER SHARE be paid to him/or her as a lump sum cash benefit.

The portion not so paid will be transferred for his/her benefit to another retirement fund selected by him/her and approved by the FUND for this purpose, subject to the provisions of RULES 7.2(2), 7.2(3) and 7.2(4).

- [6] The "Member's Share" is defined in the rules as:

"MEMBER'S SHARE in regard to any MEMBER means his/her CONTRIBUTIONS FOR RETIREMENT BENEFITS plus FUND INTEREST".

- [7] In turn, contributions for retirement benefits are defined in the rules as:

"the contributions made to the Fund by and in respect of the Member, including transfers from other fund which in terms of the Rules are deemed to be contributions for past periods, less the following expenses per Member:

- the cost of benefits other than retirement benefits;
- the cost of the administration of the Fund (excluding the investment administration); and
- fees paid to consultants of the Fund."

- [8] The fund provided a break down of your benefit as follows:

Total member's contributions to the Newlyn Group Pension Fund:	R13 826,26
Total employer's contributions to the Newlyn Group Pension Fund:	R 4 961,45
The costs of risk benefits provided in terms of separate group scheme arrangements (death, disability, spouse cover, accident benefit)	R10 922,75
Costs of the administration of the fund:	(R 2194, 24)

Fees paid to consultant		Nil
Total investment return		R 1 273,91
Surplus apportionment	R711,47 + R50,70 (interest) =	R 762,17
<b>Total Benefit</b>		<b>R18 629,55"</b>

[9] It is evident from the above rule that when you exited the fund you were entitled to a member's share of the fund, which included your total contributions to the fund towards retirement benefits plus the fund's interest. You paid monthly contributions to the fund at a rate of 7,5% of your total remuneration. In terms of Rule 4.2 of the fund, your contributions were to be applied in respect of the retirement benefits. The employer paid contributions at a rate of 9,5 % of your remuneration. In terms of Rule 4.2, the employer's contributions were firstly to be applied in respect of risk benefits and the balance to be applied in respect of the retirement benefits. Thus, your contention that your member's share in the fund ought to have included the full portion of the employer's contributions is misconceived, and thus cannot be upheld by this tribunal. I am satisfied that the fund paid your benefit in full and in terms of its rules. Thus, your contention that you are entitled to a greater benefit cannot be upheld.

[10] In the result, the complaint is dismissed and our file is closed.

DATED AT CAPE TOWN THIS THE                      DAY OF                      2006.

Yours faithfully

Vuyani Ngalwana  
**Pension Funds Adjudicator**