

DISCIPLINARY PROCEEDINGS

THE REGISTRAR OF THE AGRICULTURAL PRODUCE AGENTS COUNCIL (“APAC”)

V

- 1. NOORDEINDE VARS PRODUKTE MARK**
- 2. SUMARIUS VERMAAK**
- 3. CORNELIUS JOHANNES VERMAAK**
- 4. MARGARET VERMAAK**

(Collectively “the Accused”)

On 15 July 2014 and at Pretoria, the Accused were found guilty of the following charges:

1. During March 2013 – January 2014 and at the Port Elizabeth Fresh Produce Market, Port Elizabeth, the Accused made themselves guilty of improper conduct (as defined in Section 23(a) and/or (c) of the Act, by contravening Section 19(1)(b) of the Act and which conduct amounts to unprofessional and/or improper conduct within the meaning of Section 26 of the Act, by failing to deposit into the First Accused's Trust account the proceeds of the sale of agricultural produce sold by them on the instructions of or on behalf of their principals and more particularly in that a shortfall existed of R484 525.26 on 31 January 2014 in respect of the First Accused's trust account.
2. During March 2013 – January 2014 and at the Port Elizabeth Fresh Produce Market, Port Elizabeth, the Accused made themselves guilty of improper conduct (as defined in Section 23(a) and/or (c) of the Act, by contravening Rules 31(6)(a) and (b) promulgated in terms of the Act and which conduct amounts to unprofessional and/or improper conduct within the meaning of Section 26 of the Act, in that there were unaccounted shortages in the agricultural produce stock of the First Accused, which agricultural produce stock forms part of the First

Accused's trust account.

3. During March 2013 – January 2014 and at the Port Elizabeth Fresh Produce Market, Port Elizabeth, the Accused made themselves guilty of improper conduct (as defined in Section 23(a) and/or (c) of the Act, by contravening Section 18 of the Act, read together with Rules 21 and/or 23 and/or 27 and which conduct amounts to unprofessional and/or improper conduct within the meaning of Section 26 of the Act, in that they were *inter alia* obliged to keep full and correct accounting records of all monies received, kept or expended and of all agricultural produce received, kept or sold and failed to do so, or to do so correctly.
4. During 1 March 2013 – 31 January 2014, the Accused made themselves guilty of improper conduct (as defined in Section 23(a) and/or (c) of the Act) by contravening Rule 32(1) and/or Rule 32(4) and which conduct amounts to unprofessional and/or improper conduct within the meaning of Section 26 of the Act, in that they failed to make payment to their principals timeously as contemplated in the aforesaid rule. More particularly regarding payments made to Idstone Farming, JG de Lange Boerdery, Neil Melville and Schellingerhout Boerdery.
5. During November 2013 – January 2014, the Accused made themselves guilty of improper conduct (as defined in Section 23(a) or (c) of the Act) by contravening Rule 32(4) and which conduct amounts to unprofessional and/or improper conduct within the meaning of Section 26 of the Act, in that they sold fresh produce on the credit of their principals in contravention of the aforesaid rule

The following sanction was imposed against the Accused.

- 1 Each of the Accused's Fidelity Fund Certificate is withdrawn, which withdrawal is suspended for a period of 3 years on condition that the Accused is not found guilty of a similar offence to that on which they have been found guilty at the Hearing within a period of 3 years from date thereof;
2. The Accused are jointly and severally liable to make a contribution towards the Agricultural Produce Agents Council's costs in the amount of R40 000, which amount shall be paid in 4 equal monthly instalments, the first of which shall be payable on or before the 31st day of July 2014 and each succeeding payment on or before the last day of each succeeding month;

3. Each of the Accused is ordered to pay a fine in the amount of R20 000, of which R10 000 is suspended for a period of 3 years on condition that the Accused is not found guilty of a similar offence to that on which he has been found guilty within a period of 3 years from date of the Hearing, which fine shall be paid in 4 equal monthly instalments, the first of which shall be payable on or before the 31st day of July 2014 and each succeeding payment on or before the last day of each succeeding month;

- 4 All of the Accused and every employee of the Accused who is the holder of a Fidelity Fund Certificate is ordered to attend the Comsell 100, 200 and 300 courses to the satisfaction of Agricultural Produce Agents Council

[781 words]