

R223917

AGRICULTURAL PRODUCE AGENT'S COUNCIL ('APAC') // ANDRE VAN DER VYVER

On 26 June 2018 and at Pretoria, Andre Van Der Vyver pleaded guilty to and was consequently convicted of the following charges:

1. improper conduct by contravening Rule 21(2)(b) in that he failed to record the correct, *alternatively* full particulars referred to in Rule 21(1) in respect of fresh produce received from a producer;
2. improper conduct by contravening Rule 23 in that he sold boxes of tomatoes received from his Principal, yet failed to issue sales notes before the fresh produce concerned was removed from his custody;
3. improper conduct 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 Agency's trust account the proceeds of the sale of agricultural produce;
4. improper conduct by contravening Rule 26 in that he failed to issue a statement to his principal within 5 business days after the producer's fresh produce was sold;
5. improper conduct by contravening Rule 2 in that he failed to act:
 - honestly and conscientiously in the practising of his occupation;
 - in the best interest of his principals;
 - with the required integrity and objectivity; and
 - he misappropriated funds received to the benefit of his principal, by making payment of those funds into different accounts held by the Agency, more specifically by making payment in to the Agency's "Tomatoes Lost Stolen and Short" account.

FINDING (SANCTION)

Mr Andre Van Der Vyver was ordered to pay a fine in the amount of R15 000.00. In addition to this sanction, Mr Andre Van Der Vyver was ordered to pay a contribution towards the costs incurred by APAC in connection with the hearing in an amount of R25 000.00, with such amounts to be paid to the attorneys of record of APAC as follows:

- R500.00 per month for 6 months, the first instalment due on or before 1 August 2018 and thereafter on the 1st day of each and every succeeding month;
- R1000.00 per month for 37 months as from 1 February 2019 and thereafter on the 1st day of each and every succeeding month until the amount of R40 000.00 has been paid in full. Insofar as the calculation of interest in respect of the outstanding amount, regard shall be had to the provisions of the Prescribed Rate of Interest Act.

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(414 words)