

DISCIPLINARY PROCEEDINGS

AGRICULTURAL PRODUCE AGENT'S COUNCIL

vs

BOTHA ROODT SPRINGS (REG NO.1993/013748/23)	1st ACCUSED
JOAO DOS REIS FERNANDES	2nd ACCUSED
ROELOF JOHANNES HENDRIK POTTAS	3rd ACCUSED
ERIC ODENDAAL	4th ACCUSED
CAREL WIENECKE POTTAS	5th ACCUSED

(Collectively and severally "the Accused")

On 12 May 2015 and at Pretoria, 1st, 2nd, 3rd and 4th Accused were found guilty of improper conduct (as defined in Section 23(a) and / or (c) of the Agricultural Produce Agent's Act, 12 of 1992 ('the Act)) in that they -

1. contravened Rule 32(1) in that they failed to make payment to their principals timeously;
2. contravened Rule 32(1) and/or 32(4) in that the sold fresh produce on the credit of their principals without the prior written approval of their principals;
3. failed within the prescribed period to do a proper reconciliation of their trust accounts;
4. contravened Rules 31(6)(a) and (b) read with Section 19(3)(c) in that there were shortages in the agricultural produce stock of the 1st Accused which could not be properly accounted for;
5. failed to issue sales notes after each sales transaction and before the produce was removed from their custody;
6. failed to keep full and correct accounting records of all agricultural produce received, kept, sold and lawfully destroyed, which failure resulted in a stock shortage;
7. failed to inform their principals of the extent and condition of the agricultural produce stock not sold;

AND WHERE the 4th Accused was found guilty of improper conduct (as defined in Section 23(a) and / or (c) of the Act) by contravening Rule 2 in that he:

1. failed to act honestly and conscientiously in the practising of his occupation;
2. failed to act in the best interests of his principals; and
3. failed to act with the required integrity and objectivity envisaged by Rule 2; and
4. fraudulently and/or intentionally issued fictitious removal notes to account for surplus stock.

SANCTION (FINDING)

1. The Fidelity Fund Certificates of the 1st, 2nd, 3rd and 4th Accused are withdrawn, which withdrawal is suspended for a period of 3 years, subject to the following conditions being met:
 - (a) the 1st, 2nd, 3rd and 4th Accused are not found guilty of improper conduct as contemplated in Section 23 of the Act or in respect of which dishonesty and a trust shortage is an element;
 - (b) the 1st, 2nd, 3rd and 4th Accused must attend the Comsel 100, 200 and 300 training courses within a period of 6 months
 - (c) the 1st, 2nd, 3rd and 4th Accused shall, jointly and severally, pay a fine of R160 000.00 by way of 36 equal monthly instalments in the amount of R4 444.45, the first payment to be made on or before 25 May 2015, with all subsequent payments to be made on or before the first day of each and every succeeding month, until the full amount outstanding has been paid;
 - (d) the 1st, 2nd, 3rd and 4th Accused shall, jointly and severally, make a contribution towards the costs in an amount of R50 000.00. This amount will be paid by way of 36 equal monthly instalments in the amount of R1 388.90, the first payment to be made on or before 25 May 2015, with all subsequent payments to be made on or before the first day of each and every succeeding month, until the full amount outstanding has been paid; and
 - (e) that the Fidelity Fund Certificate of the 4th Accused is withdrawn, which withdrawal is suspended for a period of 3 years on condition that he is not found guilty of an offence committed within the said 3 year period.

WEAVIND & WEAVIND INC.

Tel: 012 346 3098

Fax: 086 515 8688

Eckard@weavind.co.za

(621 words)