

DISCIPLINARY PROCEEDINGS

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

V

- 1. RAHDA HARIDASH MAHARAJ**
- 2. ASHOK PERSOTHAM**

On 15 April 2011 and at Pretoria, Ashok Persotham was found guilty of the following charges:

1. During or about the period September 2008 to March 2009 and at Pietermaritzburg Fresh Produce Market, the accused made himself guilty of improper conduct as defined in section 23(a) and/or (c) of the Act by contravening section 20(1), 19(1)(b) read together with section 19(4) and 18(1) of the Act and rules 21, 23, 25, 26, 27, 30, 31, 32 and 33 in that :

he failed to forthwith deposit in his trust account the proceeds of the sale of agricultural produce sold on instructions of or on behalf of their principal;

failed to keep full and correct accounting records of all money received, kept or expended by the accused and of all agricultural produce received kept, sold and lawfully destroyed;

failed to keep a proper register of the particulars referred to in rule 21;

failed to comply with the provisions of rule 23 in that he failed to issue a sales note as contemplated in rule 23;

failed to inform his principal/principals, the farmers of the extent and condition of the unsold quantity of fresh produce as contemplated in rule 25;

failed to account to principals within five business days after having sold the fresh produce as contemplated in rule 26;

failed to keep accounting records as contemplated in rule 27;

failed to comply with the provisions of rule 32(1) in that he failed to make timeous payment to principals;

failed to comply with the provisions of rule 32(4) in that he sold fresh produce on the credit of his principals;

failed to comply with the provisions of rule 33 in that Hoofstad's Trust Account cannot be reconciled with the corresponding bank statements for the months of September 2008 to March 2009.

FINDING (SANCTION)

1. The accused is ordered to pay a fine in the amount of R40 000 and in addition thereto his Fidelity Fund certificate number 1027 dated 1 April 2004 is withdrawn
2. The accused is ordered to pay the amount of R140 000 as a contribution to the costs incurred by the council.
3. The total amount of R180 000 (R40 000 fine and R140 000 contribution for costs) shall be paid or may be paid in instalments of R10 000 per month as from 15 June 2010 and thereafter on or before the 15th day of every succeeding month until the full amount has been paid

All payments shall be made at the offices of the attorneys acting on behalf of the Council, Messrs Weavind and Weavind Incorporated, Pretoria, reference Mr E Le Roux.

On 22 July 2011 and at Pretoria, Rahda Haridash Maharaj was found guilty of the following charges:

1. During or about the period September 2008 to March 2009 and at Pietermaritzburg Fresh Produce Market, the accused made himself guilty of improper conduct as defined in section 23(a) and/or (c) of the Act by contravening section 20(1), 19(1)(b) read together with section 19(4) and 18(1) of the Act and rules 21, 23, 25, 26, 27, 30, 31, 32 and 33 in that :

he failed to forthwith deposit in his trust account the proceeds of the sale of agricultural produce sold on instructions of or on behalf of their principal;

failed to keep full and correct accounting records of all money received, kept or expended by the accused and of all agricultural produce received kept, sold and lawfully destroyed;

failed to keep a proper register of the particulars referred to in rule 21;

failed to comply with the provisions of rule 23 in that he failed to issue a sales note as contemplated in rule 23;

failed to inform his principal/principals, the farmers of the extent and condition of the unsold quantity of fresh produce as contemplated in rule 25;

failed to account to principals within five business days after having sold the fresh produce as contemplated in rule 26;

failed to keep accounting records as contemplated in rule 27;

failed to comply with the provisions of rule 32(1) in that he failed to make timeous payment to principals;

failed to comply with the provisions of rule 32(4) in that he sold fresh produce on the credit of his principals;

failed to comply with the provisions of rule 33 in that Hoofstad's Trust Account cannot be reconciled with the corresponding bank statements for the months of September 2008 to March 2009

FINDING (SANCTION)

1. The accused's Fidelity Fund certificate number 1025 dated 1 April 2004 is hereby withdrawn.
2. The accused is ordered to pay a fine in the amount of R40 000
3. The accused is also ordered to make a contribution towards the Council's costs of this matter in the amount of R50 000.
4. The total amount of the fine and the contribution towards costs in the amount of R90 000, is payable in monthly instalments of R1000, the first to be made on 1 September 2010 and thereafter on each and every successive month until the full amount and interest has been paid.
5. The provisions of rule 36(14) with regard to the failure to make payments timeously, as well as with regard to the applicable interest rate , is specifically incorporated into this judgement for future reference.
6. The payments will have to be made to the Council's attorneys, Messrs Weavind and Weavind Incorporated of Pretoria, and their particulars as far as payment is concerned is the following, Nedbank Pretoria, branch code 160445 and their trust account number is 1604067896.