

## ANNEXURE A

### THE REGISTRAR OF THE AGRICULTURAL PRODUCE AGENT'S COUNCIL ("APAC")

V

1<sup>st</sup> Accused      **W.H SWANEPOEL (IDENTITY NUMBER: 8808195123086)**  
2<sup>nd</sup> Accused      **S.P BEETGE (IDENTITY NUMBER: 9112275256083)**

#### ("THE ACCUSED")

On 4 July 2016 at Faerie Glen, Pretoria, the 1<sup>st</sup> Accused was found guilty of improper conduct in terms of the Agricultural Produce Agent's Act, No. 12 of 1992 ("the Act") in that:

1. During or about July 2015 to December 2015 and at the Tshwane Fresh Produce Market, the 1<sup>st</sup> Accused made himself guilty of improper conduct [as defined in Section 23(a) and/or (c) of the Act] read with Section 19(3)(c) and Rule 25(1) and Rule 25(2) promulgated in terms of the Act, in that he failed to inform the relevant principal or principals, of the extent and condition of produce, not sold within 3 business days after receipt thereof;
2. During or about July 2015 to December 2015 and at the Tshwane Fresh Produce Market, the 1<sup>st</sup> Accused made himself guilty of improper conduct [as defined in Section 23(a) and/or (c) of the Act] read with Section 19(1) and Rule 30.1 promulgated in terms of the Act, in that he failed to deposit an amount of R2 700.00, being the proceeds of the sale of fresh produce on behalf of Nicholls, Vrugte Verspreiders Trust, into the trust account of DW Fresh Produce Market Agents;
3. During or about July 2015 to December 2015 and at the Tshwane Fresh Produce Market, the 1<sup>st</sup> Accused made himself guilty of improper conduct [as defined in Section 23(a) and/or (c) of the Act] by contravening Rules 2, 4 and 6 in that he:
  - a) Failed to act with integrity, objectivity and independence as envisaged in Rule 2;
  - b) Resorted to ventures which resulted or could result in a conflict of interest or an impairment of independent judgment in the practicing of his occupation as envisaged in Rule 4;
  - c) Failed to act in the best interest of his principals;

More particularly in the following respects:

- (i) He incorrectly recorded produce received from the producer, Nicholls Vrugte Verspreiders Trust, for a lesser quantity to that of which was delivered;
- (ii) Received a cash payment in the amount of R2 700.00 from buyers on the market and concealed this fact from the management concerned and did not make payment of the proceeds into the trust account of DW Fresh Produce Market Agents, which conduct amounts to unprofessional and/or improper conduct within the meaning of Section 26 of the Act.

#### **SANCTION IN RESPECT OF THE 1<sup>ST</sup> ACCUSED**

1. The 1<sup>st</sup> Accused shall be liable to pay a fine in the amount of R10 000.00 (ten thousand Rand), which fine is payable to the credit of APAC, into the Trust Account of Weavind & Weavind Inc. Attorneys;
2. The Fidelity Fund Certificate of the 1<sup>st</sup> Accused, with number 2167, is withdrawn. Such withdrawal is suspended for a period of 2(two) years subject to the following conditions:
  - 2.1 that the 1<sup>st</sup> Accused is not found guilty of a similar offence, or any other offence of which dishonesty is an element and which is committed within a period of 2(two) years from the date of this sanction;
  - 2.2 that the amounts payable in respect of the fine, the contribution to costs and the amount due and payable to DW Fresh Produce Market Agency, in terms of this sanction be paid in full on or before the due date therefor;
3. The 1<sup>st</sup> Accused shall make a contribution towards APAC's costs in respect of the disciplinary proceedings culminating in this sanction, in the amount of R10 000.00 (ten thousand Rand), which contribution is payable to the credit of APAC, into the Trust Account of Weavind & Weavind Inc. Attorneys;
4. That the 1<sup>st</sup> Accused is liable to make payment of R1350.00 (one thousand three hundred and fifty Rand) into the business account of DW Fresh Produce Market Agency within 30(thirty) days from date of this sanction.
5. The abovementioned contribution towards costs and the fine shall be payable by way of 4 (four) equal monthly instalments, each together with interest calculated at the prescribed rate of interest and collection commission,

the first payment to be made on/or before 8 July 2016 and thereafter on or before the first day of each following month, with the understanding that the entire outstanding amount plus interest thereon shall become immediately due and payable should the 1<sup>st</sup> Accused fail to make any payment on the due date therefor.

On 4 July 2016 at Faerie Glen, Pretoria, the 2<sup>nd</sup> Accused was found guilty of improper conduct in terms of the Agricultural Produce Agent's Act, No. 12 of 1992 ("the Act") in that:

1. During or about July 2015 to December 2015 and at the Tshwane Fresh Produce Market, the 2<sup>nd</sup> Accused made himself guilty of improper conduct [as defined in Section 23(a) and/or (c) of the Act] read with Section 19(1) and Rule 30.1 promulgated in terms of the Act, in that he failed to deposit an amount of R2 700.00, being the proceeds of the sale of fresh produce on behalf of Nicholls, Vrugte Verspreiders Trust, into the trust account of DW Fresh Produce Market Agents;
2. During or about July 2015 to December 2015 and at the Tshwane Fresh Produce Market, the 2<sup>nd</sup> Accused made himself guilty of improper conduct [as defined in Section 23(a) and/or (c) of the Act] by contravening Rules 2, 4 and 6 in that he:
  - a) Failed to act with integrity, objectivity and independence as envisaged in Rule 2;
  - b) Resorted to ventures which resulted or could result in a conflict of interest or an impairment of independent judgment in the practicing of his occupation as envisaged in Rule 4;
  - c) Failed to act in the best interest of his principals;

More particularly in the following respects:

- (i) He incorrectly recorded produce received from the producer, Nicholls Vrugte Verspreiders Trust, for a lesser quantity to that of which was delivered;
- (ii) Received a cash payment in the amount of R2 700.00 from buyers on the market and concealed this fact from the management concerned and did not make payment of the proceeds into the trust account of DW Fresh Produce Market Agents, which conduct amounts to unprofessional and/or improper conduct within the meaning of Section 26 of the Act.

#### **SANCTION IN RESPECT OF THE 2<sup>nd</sup> ACCUSED**

1. The 2<sup>nd</sup> Accused is sanctioned to pay a fine in the amount of R50 000.00 (fifty thousand Rand), which fine is payable to the credit of APAC into the Trust Account of Weavind & Weavind Inc. Attorneys. The payment of R35 000.00 (thirty five thousand Rand) of the aforementioned fine, is suspended for a period of 3(three) years subject to the following condition:
  - 1.1 that the 2<sup>nd</sup> Accused is not found guilty of a similar offence, or any other offence of which dishonesty is an element and which is committed within a period of 3(three) years from the date of this sanction;
2. The 2<sup>nd</sup> Accused shall make a contribution towards APAC's costs in respect of the disciplinary proceedings culminating in this sanction, in the amount of R10 000.00 (ten thousand Rand) , which contribution is payable to the credit of APAC into the Trust Account of Weavind & Weavind Inc. Attorneys;
3. That the 2<sup>nd</sup> Accused is liable to make payment of R1350.00 (one thousand three hundred and fifty Rand) into the business account of DW Fresh Produce Market Agency within 30(thirty) days from date of this sanction.
4. The abovementioned contribution towards costs and the fine shall be payable on/or before 31 July 2016.

**1264 WORDS**