

IN THE EXEMPTION APPLICATION OF:-

SBV SERVICES (PTY) LTD

Applicant

and

**NATIONAL BARGAINING COUNCIL FOR THE
ROAD FREIGHT AND LOGISTICS INDUSTRY (Council)**

Respondent

DECISION

1. The Applicant applied for exemption not to contribute to Council's Wellness Fund. The Applicant's employees are registered with Bankmed Medical Aid and have an in-house wellness program.

2. The matter appeared on the Agenda of the Exemptions Body meeting held on the 18th July 2011.

3. The following were present:-
 - 3.1 Mr Y. Nagdee - Chairperson of the Exemptions Body
 - 3.2 Mr G. Wessels - Member of the Exemptions Body
 - 3.3 Ms M. Brown-Engelbrecht - Member of RFEA
 - 3.4 Mr T. Short - Member of RFEA
 - 3.5 Mr J. Gys - MTWU
 - 3.6 Mr E. Kock - Senior Agent of NBCRFLI
 - 3.7 Ms T. Stroh - NBCRFLI

3.8 Mr P. Mndaweni - Committee Secretary of NBCRFI

4. Apologies were received from:

4.1 Ms R. Manning - Member of the Exemptions Body

5. **APPLICANT'S SUBMISSIONS**

The Applicant submits, inter alia, as follows:

- "1. Our meeting of the 30th October 2009 at the offices of NBCRFI and various subsequent meetings and emails refer.***
- 2. We confirm that SBV has applied for exemption from the NBCRFI Wellness Fund in November 2009, but that we have not had any formal response to our application.***
- 3. We further confirm that SBV entered the Retail CIT industry from 1 January 2010 and that all employees who are employed in SBV's Retail CIT division are resorting under NBCRFI's jurisdiction and that these Retail CIT employees are participating in all NBCRFI's structures, processes and funds.***
- 4. We have noted the NBCRFI Wellness Fund that was established in terms of Clause 57 of the NBCRFI main agreement. We understand that the Wellness Fund provides for:***
 - 4.1 A comprehensive strategy to promote awareness of HIV and AIDS;***

4.2 Facilities, services and benefits for employees in the industry who suffers from HIV and AIDS;

4.3 Promoting the substantive and procedural rights of employees who are diagnosed with HIV and AIDS.

5. SBV hereby applies in terms of clause 46 of NBCRFI's main agreement for full exemption from the NBCRFI Wellness Fund. The grounds on which SBV is applying for exemption from the Wellness Fund are as follows:

5.1 It is a condition of employment for all Retail CIT employees to become members of the Bankmed medical aid scheme. SBV subsidizes 50% of employees' monthly medical aid membership fees. Bankmed provides to all members various free and confidential special care programmes, one of which is a special care program for members who were diagnosed with HIV or who suffer from AIDS. The Bankmed HIV / AIDS special care program provides to members, on a one-on-one basis, the following services:

- Information and advice on treatment;**
- Counselling and continuous encouragement;**
- Information on the correct diet, vitamins and lifestyle to built up the immune system;**
- Referrals to healthcare providers who are experienced in managing the disease;**
- Counselling and support to family members and partners; and**
- Access to:**

- *Doctor's consultations;*
- *Blood tests;*
- *Antiretroviral treatment;*
- *Treatment for HIV positive pregnant women;*
and
- *Treatment for persons who may have been exposed accidentally to the virus.*

5.2 *All Retail CIT employees have free access to the ICAS Employee Wellbeing service. ICAS provides a free and confidential professional psychological counselling service on a 24 hour basis (telephonically), or on a one-on-one basis, to employees who were diagnosed with HIV or who suffers from AIDS.*

5.3 *SBV launched a voluntary HIV testing and counselling service through Careworks HIV Management from 1 December 2009. All SBV's Retail CIT employees have access to a confidential HIV testing and counselling service that is performed by professional healthcare providers on an intermittent basis.*

6. *In view of the above, SBV believes that the programmes and services that it is offering to its Retail CIT employees to manage the different facets of HIV / AIDS, are better than the programmes and services that the NBCRFI Wellness Fund offer to employees. We therefore request that this application for exemption from the NBCRFI Wellness Fund be granted.*

7. *Should you require additional information to consider this application, kindly contact the writer."*

6. MTWU

Mr. Guys pointed out that a demarcation dispute is pending. It was confirmed that the demarcation did not apply to the present application.

7. COUNCIL'S SUBMISSIONS

7.1 The Council submitted, inter alia, as follows:

"The Applicant has a good compliance history with the Collective Agreements of Council and is compliant with the provisions of the previous exemption that was granted to them on the Wellness Fund.

The Exemptions Body is guided by clause 57 of the Main Collective Agreement and clause 4(8) of the Dispute Resolution Agreement. We therefore trust that the panel will make their decision accordingly."

7.2 The Council further submitted that it was not opposed to the application.

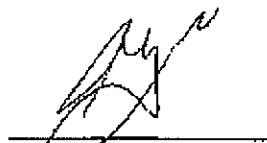
8. ANALYSIS

The Exemptions Body is satisfied that the Applicant has complied with the criteria in terms of clause 4 of the Dispute Resolution Agreement. The Applicant's employees are registered with Bankmed and have an in-house wellness program. The application has the support of SASBO, a finance Union.

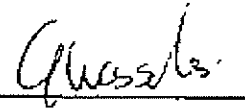
9. **DECISION**

The Applicant is granted an exemption from Council's Wellness Fund for the period 1st May 2011 to 30th April 2012.

DATED THE 1st DAY OF August 2011 AT BRAAMFONTEIN,
JOHANNESBURG.



MR. Y. NAGDEE
Chairperson of the
Exemption Body



MR G. WESSELS
Member of the
Exemption Body