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ISSUE 34 • MARCH 2003

NEWSLETTER FROM THE PUBLIC ACCOUNTANTS' AND AUDITORS' BOARD
NUUSBRIEF VAN DIE OPENBARE REKENMEESTERS- EN OUDITEURSRAAD

REPORT FROM THE CHIEF EXECUTIVE OFFICER

We finally have lift off! Subsequent to the release of our December 2002 issue, the Minister of Finance announced the appointment of a 17-member panel to review inter alia the appropriateness of the Draft Accountancy Profession Bill in the light of international developments and the debate around self-regulation of the profession.

Full details of the composition of the panel and its terms of reference can be viewed on the treasury web-site www.treasury.gov.za. The composition of the panel includes representatives from the National Treasury and Trade and Industry Departments, the Office of the Auditor-General, the Financial Services Board, the Reserve Bank and Academia.

The objective is for the panel to make recommendations to the Minister of Finance by July 2003 on the matters included in the terms of reference. The terms of reference are widely framed and undoubtedly the panel will be hard pressed to complete the task within the timeframe allocated.

Public comment was called for by 21 February 2003, and the PAAB's submission can be viewed on our website www.paab.co.za. Our submission is considered to be entirely consistent with the viewpoints agreed by our Board and conveyed to RAA's and other stakeholders over the period since the debate concerning the appropriateness of the regulatory system proposed in the Draft Bill began.

Essentially, the PAAB has expressed its support for the perpetuation of a statutory regulatory system and its belief that the proposed Draft Bill, with

appropriate amendments to meet with public interest expectations, provides a sound framework to achieve this.

A major public interest perspective is the need to ensure that the profession will not be in a position to exert undue influence over the regulatory process. Our submission has suggested that this can be addressed through a reconsideration of the composition of board membership of the proposed Regulatory Board for Auditors and of the related Independent Standards Setting Boards for Auditing and for Ethics.

However, we have expressed the view that achieving improved protection of investors and the public interest can only be attained by a partnership of government, the profession and other stakeholders, with each playing its part in an efficient and effective system of regulation.

Our submission also expresses our view that the objectives of achieving practical and lasting solutions will not be found in a draconian approach to regulation.

South Africa is not alone in the review of its regulatory systems for the profession. The UK has just completed a review of its newly introduced system and wide-ranging changes are in the course of consideration or implementation in the USA, Canada, Australia, and the European Commission for its member states, to name some of these.

The PAAB believes that there is an urgent need for certainty and finality and we have pledged our support and assistance to the panel to achieve this.

– **CLAUDE O'FLAHERTY**
Chief Executive Officer

WEBSITE – www.paab.co.za

Once again the PAAB website had an enormous daily visitor hit rate over the period of the release of the PPE 2002 results. On the date of the release of the results, 28 February 2003, an astounding 159,654 hits were recorded for the day, bearing in mind that the results only went live at 4pm. We are very pleased that so many people found our site useful and hope that all will return to our site to access other information. In the build up to the date of release the daily hit rate climbed from an average of 3,500 to 10,336 on the Monday prior, and 17,114 on Thursday, 27 February. On Saturday, 1 March the daily hit rate was still 17,212. 35% of persons access our site via the MWeb domain, 22% via Dial-Up.net and the rest via various other smaller domains. South Africa accounts for 55% of the hits to our site, with the US on 40% and a number of other countries to follow. One new country added to the list that visit our site is the United Arab Emirates with 403 hits. The majority of persons browsing our site use Internet Explorer 6.0, followed by Internet Explorer 5.5. Very few browsers are still using Internet Explorer 4.1 or lower. The web browsers to our site predominantly use Windows 98 or Windows 2000 as their operating system. SAICA's website has referred 881 users through to our site followed by www.aardvark.co.za with 441. The top search phrase on search engines to our site is "paab". We would welcome any suggestions for enhancement to our website and hope to remain of top service to our members and the public in general.



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NEW APPOINTMENTS



CHAIRMAN: MR I PATEL

Ismail Patel matriculated from the Orient Islamic High School in 1967 whereafter he completed his B.Com degree through UNISA in 1970. Ismail obtained his CTA from the University of Durban Westville in 1974 and passed the qualifying examination of the Board in 1975.

Ismail registered with the Board on 1 January 1976 and immediately went into practice. He is a partner of Gcabashe Inc Chartered Accountants (SA) in Durban. He registered as a member of SAICA in 1975 and has been a member of ABASA since 1988.

In 1997 Ismail became an alternate member to the Board and has served as a full member of the Board and EXCO since 1999. He served as Vice-Chairman in 2002 before being elected as Chairman for 2003. Ismail was president of the KwaZulu Natal Society of Chartered Accountants in 1997 and 1998, as well as a council member from 1991 to 2001. He has also been a member of the SAICA Professional Conduct Committee since 2002.



VICE CHAIRMAN: MRS RE BENJAMIN-SWALES

Ruth E Benjamin-Swales matriculated from Athlone High School in 1980 whereafter she completed her B.Com degree and obtained her CTA qualification through UCT in 1985. Ruth passed the qualifying examination of the Board in 1989.

Ruth served her articles with a medium sized firm of chartered accountants in Cape Town and thereafter spent six years at Ernst & Young, the latter three years spent in their Consulting division. In 1995 Ruth joined the Performance Audit division of the Office of the Auditor-General.

KMMT Brey (a medium sized black-owned firm of chartered accountants) invited Ruth to join them and in April 1998 she registered with the PAAB. Ruth has been in public practice since then and is currently a partner at Ernst & Young in Cape Town, following the merger of Gobodo Inc. Western Cape (for merely KMMT Brey) with Ernst & Young in July 2002.

Over the past few years Ruth has been an active member of both the Association of Black Accountants in Southern Africa (ABASA) as well as the South African Institute of Chartered Accountants (SAICA). She currently serves as Council member on the SAICA Southern Regions Council, she is the Chairperson of SAICA's national Public Sector Committee and she serves on SAICA's National Accountancy Transformation Committee.

Ruth was elected as SAICA's representative to the PAAB in 2000 and has served as a member of the PAAB's Exco since 2002. She has been elected Vice Chairman of the PAAB for 2003.

AUDITING STANDARDS

PUBLICATION OF AUDITING PRONOUNCEMENTS

As from 1 January 2003 all auditing pronouncements are available on the Public Accountants' and Auditors' Board's website, www.paab.co.za under Auditing Standards, as well as in the South African Institute of Chartered Accountant's Handbook.

AUDITING STANDARDS BOARD (ASB)

The following pronouncements, which were approved by the ASB in October 2002, were issued in December 2002:

- SAAS 502 Enquiries Regarding Litigation and Claims which becomes effective for all audit reports issued on or after 31 January 2003.
- SAAS 545 Auditing Fair Value Measurements and Disclosures which becomes effective for audits of financial statements for periods ending on or after 31 December 2003.
- SAAPS 1004 The Relationship Between Banking Supervisors and Banks' External Auditors.
- SAAPS 1006 Audits of the Financial Statements of Banks.

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AUDITING STANDARDS

PRONOUNCEMENTS ISSUED BY SAICA

The following circulars have been issued by SAICA and are available on the SAICA web site:

- Circular 5/2002 Reporting on Financial Information Contained in Interim Reports, Preliminary Reports, and Voluntary Announcements of Annual Results (November 2002),
- Circular 6/2002 Proposed Agreed Procedures to be Performed by Auditors of Long-term Insurers When Reporting on the Agreed-upon Procedures Contained in Part II of the Declaration by Auditors Contained in Statement G8 of the Long-term Return (November 2002), and
- Circular 1/2003 Guideline on Fees for Audits Done on Behalf of the Office of the Auditor General (January 2003).

INTERNATIONAL AUDITING AND ASSURANCE STANDARDS BOARD (IAASB)

The IAASB met in Miami from 8-12 December 2002 when it considered the progress of task forces working on the following proposed pronouncements:

- An international standard on review of interim financial information.
- A revision of the international standard on assurance engagements.
- A revision of the international standard on considering the work of other auditors and an international practice statement on the audit of group financial statements.
- A revision of the international standard on the auditor's report on financial statements.
- A revision of the international standard on fraud.
- A revision of the international standards on the audit of estimates involving measurement uncertainty and materiality.
- A revision of the international standard on quality control.

The IAASB also approved projects to revise the international standards on documentation and using the work of an expert.

Following its December meeting the IAASB released its action plan for 2003 and 2004. In establishing its priorities, the IAASB considered recent changes in the environment in which assurance services are provided, including the impact of technology, regulatory developments, and the growing demand for audits conducted in accordance with International Standards on Auditing (ISAs) for cross-border filings.

The IAASB Action Plan for 2003-2004 may be viewed on the IFAC web site by going to www.iaasb.org. The IAASB remains aware of the need to be flexible in its planning process so that it may effectively respond to new events and circumstances and alter its action plan to address new priorities. Accordingly, comments on the plan are welcome and should be emailed to the IAASB Technical Director at jimsylph@ifac.org, faxed to Jim Sylph's attention at 1-212-286-9570 or mailed to his attention at IFAC, 535 Fifth Avenue, 26th Floor, New York, NY 10036.

NATIONAL STANDARD-SETTERS MEETING

The third annual meeting of national standard-setters was held in Paris from 16-17 January 2003. The objective of these meetings is to share information on current and future national and international projects in audit standard-setting and to identify areas for co-operation between national standard-setters and the IAASB.

Matters of international interest which were discussed included:

- The process for adopting ISAs within a country.
- A proposed project on the concept of reasonable assurance.
- Auditors Override i.e. where the financial statements are prepared in accordance with the applicable accounting framework but nevertheless do not give a true and fair view.

PRINCIPLES V RULES BASED APPROACH

Internationally it has been questioned whether a principles or a rules based approach to standard-setting is appropriate. The Auditing Standards Board continues to support a principles based approach to standard-setting, as the differing nature of each audit engagement requires the exercise of professional judgement in the conduct of the engagement. To this end it is worth noting that the Chairman of the International Auditing and Assurance Standards Board has stated in the International Auditing and Assurance Standards Board's 2002 Annual Report that "The IAASB continues to believe that high quality standards based on basic principles and essential procedures best serve the public interest by eliciting thoughtful auditor assessment of the particular circumstance of each engagement." He goes on to state, however, that "It is recognized that related guidance and explanatory material need to be sufficiently comprehensive and complete to drive auditor behaviour and eliminate differences in practice." ■

– KAREN LAUF



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OFFICIAL STATEMENT ACCOMPANYING THE RELEASE OF THE RESULTS OF THE PUBLIC PRACTICE EXAMINATION (PPE) 2002

OVERALL RESULTS

A record number of 2298 (2001: 2113) candidates wrote the Public Practice Examination (PPE) set by the Public Accountants' and Auditors' Board (PAAB) in November 2002. Of these, 1372 (2001:1258) passed, representing a pass rate of 60 % (2001: 60 %). The pass rate for candidates who wrote for the first time was 68 % (2001: 66%).

Two candidates were awarded honours for achieving a pass mark of over 75 %.

The names of the top 10 candidates are:

- 1 – Kumeshnee Singh – *with honours*
- 2 – Alan John Wilson – *with honours*
- 3 – Daniel Ruscic
- 4 – Lisa Joy Holland
- 5 – Arshad Yacoob Essa
- 6 – Gur Moshe Geva
- 7 – Michelle Strydom
- 8 – Tanya Michelle Sayer
- 9 – Georgina Clare Koch
- 10 – Sven Wusthoff

The pass rate achieved by the total number of black candidates (African black, Coloured and Indian) for the 2002 PPE is encouraging. It is particularly noteworthy that two of the top ten candidates are black. Out of the 630 black candidates who wrote, 351 passed. This equates to a pass rate of 56% (54% in 2001).

TRANSFORMATION OF THE PROFESSION

Increasing the number of black accountants and auditors is a national imperative and the PAAB, the South African Institute of Chartered Accountants (SAICA), the universities and the professional firms are working aggressively to address this. One such special initiative of the PAAB and

Fasset is the implementation of a Black Advancement Programme for black candidates who have been unsuccessful in previous attempts to pass the PPE. In 2002, of the 91 black candidates who participated in and completed the PAAB's advanced programme 43 passed.

It is both the PAAB's and Fasset's contention that the Black Advancement Programme adds value and assists in increasing the number of black candidates that write and pass the PPE annually.

THE EXAMINATION OBJECTIVE

The statutory auditor performs a very responsible function and the PAAB has a duty to ensure that only those who have demonstrated an appropriate degree of professional competence are registered as auditors. The examination, which aims to assess professional competence takes the form of a five-hour written assessment consisting of a selection of case studies depicting the public practice environment. Candidates must demonstrate an ability to solve multi-disciplinary practical problems in an integrated manner and to do so, must analyse and interpret information and provide viable solutions to address specific client needs. The ability to demonstrate logical thought and exercise professional judgement is an integral part of the examination.

ADMISSION REQUIREMENTS

Admission requirements to the PPE are onerous, requiring completion of a recognised academic and education programme. In addition, entrants must also have passed Part I of the Qualifying Examination of the SAICA. Completion of the academic requirement under a full-time study programme ordinarily takes at least four years. Given the practical focus of the assessment, candidates are required to have served at least 18 months of a registered training contract in the service of a Registered Accountant and Auditor before being admitted to write the PPE.

The minimum total duration of a training contract is three



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years, which usually follows the four-year period of full-time study. The period of qualification for most students is therefore at least seven years. This may seem to be extremely protracted, however, the PAAB believes that this is in keeping with its duty to ensure that standards at entry point are maintained and that only those who are able to meet prescribed competency standards, are registered as auditors. The qualification period is certainly not out of line with those of other highly regarded professions and internationally recognised accounting bodies.

RECOGNITION OF PROGRAMMES

In 1999, the PAAB adopted a Recognition Model whereby it recognised the programmes of professional institutes, currently SAICA, for enabling admission to the examination. The PAAB monitors the quality of the Institute's programmes against its own recognition standards.

This recognition structure, which differentiates the responsibility between the provision of the programme and assessment of quality, has proved successful. It recognises

the autonomy of professional bodies, which are in the best position to interact with providers of the programme. This in turn provides the leverage necessary for the PAAB to continually monitor standards on an objective basis.

CONCLUSION

The PAAB is confident that the successful candidates have demonstrated a degree of professional competence that will enable them to make a positive contribution to the profession and the economy of South Africa.

The PAAB's examination continues to be afforded both local and international recognition and we wish to congratulate our successful candidates on their achievement.

The PPE is the culmination of a long academic, education, training and assessment process aimed at developing professional competence. We wish to acknowledge the significant contribution made by various education institutions, training officers and SAICA towards the success of the candidates. ■

PRACTICE REVIEW

TO INCORPORATE OR NOT?

INTRODUCTION

Until 1968, professional firms were mostly obliged to carry on business as partnerships, largely because of the various rules and regulations prohibiting the professional members from escaping individual liability by incorporations. Professionals were therefore not able to take advantage of corporate existence and they could not ensure perpetual succession of their practices. In 1968 the private company with unlimited concurrent joint and several liability was born to make it possible for the professional practicing in partnership to become incorporated under the Companies Act of 1926.

REASONS FOR INCORPORATION

The advantages of incorporation includes:

- Perpetual succession.
- Ease of transferring shares (The PAAB Act requires

however that every shareholder should be a registered public accountant).

- Limited liability.
- Unlimited number of shareholders.
- Protection of personal assets.
- Certain tax advantages, *depending on the tax rates.*

The disadvantages are:

- The numerous formalities and administrative requirements laid down in the Companies Act.
- The fact that a statutory audit is required by law.

THE PROCESS OF INCORPORATION

The process is very similar to that of forming any other company with the exception of the following:

- Name application (CM5): Approval for suggested name

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PRACTICE REVIEW

should be obtained from the PAAB before registering the company with the Registrar of Companies.

- The following should be added to section 6, Conditions of the memorandum and articles: “Section 53(b): “The directors and past directors shall be liable jointly and severally, together with the company, for such debts and liabilities of the company as are or were contracted during their periods of office, in which case the said directors and past directors shall be liable.”

DUTIES OF DIRECTORS UNDER THE COMMON LAW

At incorporation practitioners now become directors of the company. S 208(1) of the Companies Act states that “Every public company shall have at least two directors and every private company shall have at least one director.”

This company is different in that S 21(2) of the PAAB Act requires that:

- (a) only natural persons who are public accountants may be members or shareholders of the company or have any interest in its shares;
- (b) every shareholder of the company should be a public accountant and director thereof and only such a shareholder may be a director thereof.

The provision of S 20(1)(b) of the Companies Act, restricting the number of members to 50, shall not apply if it is a private company.

Under the Common Law the following duties are imposed on directors:

- The duty to act bona fide and in the best interest of the company.
- Avoiding conflict of interest.
- The duty to act with unfettered discretion.
- Duty of care and skill.

DUTIES UNDER THE COMPANIES ACT

As the Companies Act should be well known by practitioners, too much detail will not be provided, safe to say that there are various requirements that should be complied with. The Companies Act does not discriminate between the director of the professional firm and other companies. The sections that affect directors and officers, to mention only a few, are S15A, 37, 38, 50, 77, 82, 86, 93,

113, 122, 172, 179, 181, 185, 189, 200, 204, 206, 207, 216, 221, 222, 226, 228, 234, 235, 236, 237, 238, 239, 242, 245, 251, 260, 269, 275, 281, 284, 286, 287, 288, 295, 297, 298, 312, 414 and 424. Practitioners should bear in mind that the non-compliance with these requirements can be penalised with either a fine, imprisonment for up to one year or both.

AUDITORS' LIABILITY UNDER INCORPORATION

When a partnership incorporates, it becomes a separate legal entity apart from its members. However, provision is made for the professional members to share liabilities of the incorporated entity. S 21(2)(a) of the PAAB Act requires a private company that conducts a public practice of registered accountants and auditors, to provide in its memorandum and articles of association that all directors shall be jointly and severally liable for the debts and liabilities of the company *contracted* during their periods of office.

Thus, professionals carrying on business in partnership are jointly and severally liable for *all* debts and liabilities of the partnership, however contracted or incurred. However, as a result of the judgement in the case *Fundstrust (Pty) Ltd (in liquidation) v Van Deventer 1997 (1) SA 170 (A)*, directors of incorporated professional practices will enjoy restricted limitation of liability in that they will be liable only for the debtors and liabilities *contracted* by the company, but not for delictual, enrichment, or statutory claims against the company. However, this judgment does not detract from S 424 of the Companies Act, which still applies if a director of a professional company carries on business recklessly or with intent to defraud creditors. In that situation he can be held personally liable for all the debts and liabilities of the company.

CONCLUSION

The decision to incorporate or not will at the end come down to personal preference. Even though the advantages of incorporation are clear, various practitioners still prefer to trade within a partnership. Some practitioners have claimed that, when you do not have sufficient debt to redeem, you do not get much benefit from the process. The statutory requirements are also a negative factor, yet issues like business continuation should make up for such difficulties. One of the deciding factors might just be the protection offered by S 53(b) in terms of contractual vs. delictual debt. ■

– **MARTHIE CLAASSENS**
Practice Reviewer



QUARTERLY REPORT FROM THE DIRECTOR: LEGAL

for the period 1 October 2002 to 31 December 2002

INVESTIGATION COMMITTEE

The Investigation Committee met twice during this period and disposed of 22 cases (involving 23 practitioners) as follows:

- Three cases were either withdrawn by the complainant, not prosecuted, or not proceeded with by the Committee, for various other reasons, including settlement.
- Five cases in terms of Disciplinary Rule 3.9.1 (the accused having given a reasonable explanation for the conduct).
- Three cases in terms of Disciplinary Rule 3.9.3 (there being no reasonable prospect of proving the accused guilty).
- Two practitioners were cautioned; one matter related to the failure to hand over documents and the other was related to treatment of a trainee accountant.
- Ten practitioners were fined (two fines related to the same complaint). All had pleaded guilty, and were found guilty.

The matters were as follows:

- ♦ **one** related to certain questionable share transactions. (R5 000 with a further R20 000 suspended on conditions)
- ♦ **two** related to negligence - (R5 000; R10 000 with a further R20 000 suspended on conditions),
- ♦ **three** related to deceased estates (R5,000; R2,500 against one partner with a further R5,000 against a different partner in the same matter)
- ♦ **one** related to failure to reply to correspondence (R2 000);
- ♦ **three** related to practice review (1st cycle third review – R15 000 suspended on conditions; 2nd cycle 2nd review – R10 000 with a further R10 000 suspended on conditions; 2nd cycle 3rd review – R5 000 with a further R5 000 suspended on conditions.).

DISCIPLINARY COMMITTEE

The Disciplinary Committee heard three cases during this period.

FIRST MATTER

On 30 October 2002 the Committee heard the case against Mr Walker. He did not appear nor was he represented. He was found guilty on five charges.

First charge

The practitioner was found guilty of contravening disciplinary rule 2.1.5 in that without reasonable cause or excuse he failed to perform work or duties commonly performed by a practitioner with a degree of care and skill as may reasonably be expected, or failed to perform them at all. The practitioner was the co-executor of a deceased estate and in this capacity failed to perform his duties as executor.

Second charge

The practitioner was found guilty of contravening disciplinary rule 2.1.21 in that he conducted himself in a manner which was improper or discreditable or unprofessional or dishonourable or unworthy of a practitioner, in that on or about 23 April 2001 he informed the widow of the late Mr R, on enquiry as to progress with the winding-up of the estate, that documents had been lodged with the Master of the High Court and that progress had been made, when in fact no documents had been lodged with the Master of the High Court and no progress had been made, and he knew or must have known this to be the case.

Third charge

The practitioner was found guilty of contravening disciplinary rule 2.1.5 in that, without reasonable cause or excuse he failed to perform work or duties commonly performed by a practitioner with the appropriate degree of care and skill, in that he failed and/or neglected to prepare and/or submit income tax returns for [the company] in respect of the financial year ends 1992 up to and including 1999.

Fourth charge

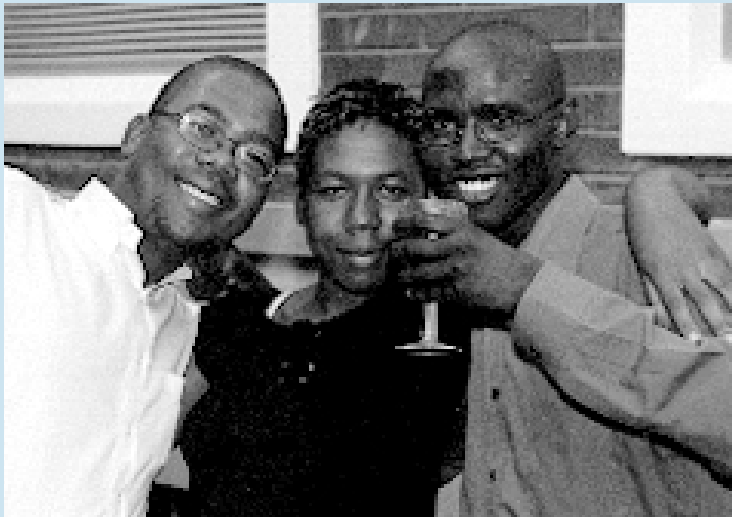
The practitioner was found guilty of contravening disciplinary rule 2.1.21 in that he conducted himself in a manner which was improper or discreditable or unprofessional or dishonourable or unworthy of a practitioner, in that during or about November 2001 he informed Mr R, in response to an enquiry concerning the completion and rendering of income tax returns for [the company], that the income tax returns in respect of the financial year ends 1992 up to and including 1999 had been completed and submitted, whereas in fact the income tax returns for the years in question had not been completed and/or had not been submitted.

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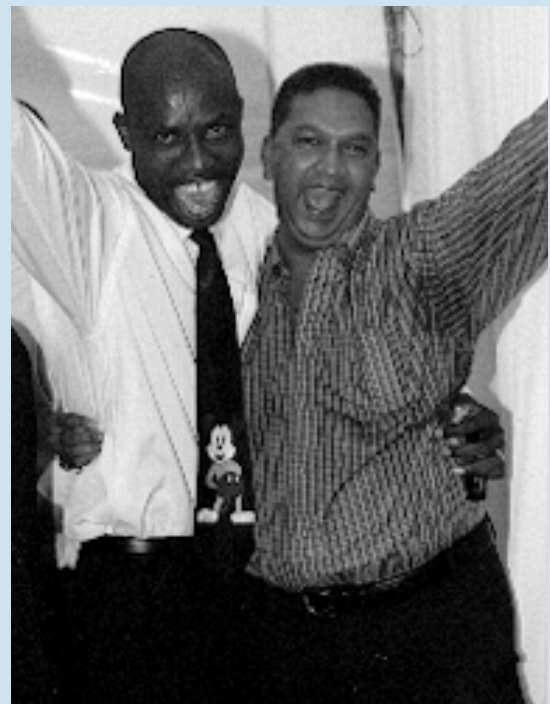


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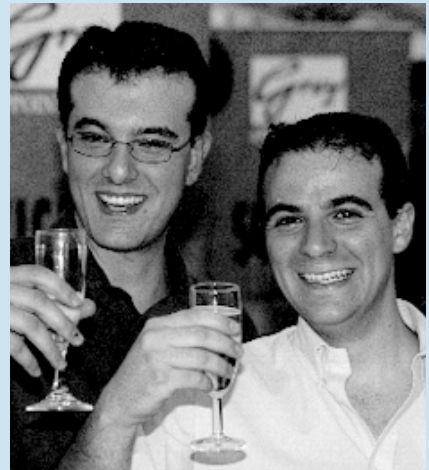
The Education and Training Department of the PAAB, held the PPE 2002 Results Release Function on Friday, 28 February 2003 at our premises. A substantial number of candidates came to the PAAB in anticipation of receiving their results, which was released at exactly 4pm that Friday afternoon. The relief on the faces of the successful candidates was heart-warming and to share in the overwhelming joy, after the immense tension, was an absolute thrill. The PAAB congratulate all the successful candidates and wish them continued success in their chosen careers.





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Fifth charge

The practitioner was found guilty of contravening disciplinary rule 2.1.14 in that, during or about the period from 1997 to date of hearing, he had failed to respond to 13 different communications, from the Board and various other persons.

Sentence

The sentence and reasons of the Committee were as follows.

The Committee considered the matter from three perspectives – the offender, the offence and the community.

The offender had suffered from a number of personal setbacks, as conveyed to the Committee by the pro forma complainant. He was apparently an experienced practitioner who should have known better. He showed an attitude of indifference to his profession and professional standards and to his clients and, by his non attendance, to the Committee. He had allowed his registration to lapse due to non-payment of fees. He was, on the other hand, a first offender.

The offence – he was guilty of serious dereliction of professional duty, over an extended period of time. The offences were committed despite extensive attempts by the clients to get him to co-operate. The offences involved dishonesty and breach of trust.

The community – these offences have affected members of the broader community. After five years Mrs R has received nothing from the estate. The company has been prejudiced by the failure to submit tax returns. The professional community has been affected by the disreputable conduct of one of its former members.

Punishment:

The practitioner was permanently disqualified from registering as an accountant and auditor, with this Board. He was ordered to contribute towards the costs of the hearing in the amount of R20 000.

The Committee ordered that the findings and punishment together with the name of the practitioner be published in *Maneo*.

SECOND MATTER

Op 30 Oktober 2002 het die Komitee ook die saak teen Mnr Preller van die firma JHPreller gehoor. Hy was teenwoordig, maar nie verteenwoordig nie. Daar was twee klagtes teen die praktisyn voorspruitend uit sy praktyk oorsig. Dit was sy

derde oorsig in die eerste siklus. Hy het skuldig gepleit en was skuldig bevind aan al twee klagtes.

Eerste klag

Die praktisyn was skuldig bevind van 'n oortreding van dissiplinêre reël 2.1.5 deurdat hy, sonder redelike oorsaak of verskoning, versuim het om sy werk of pligte as ouditeur van [X], wat werk of pligte was wat gewoonlik deur 'n geregistreerde rekenmeester en ouditeur uitgevoer word, met sodanige mate van omsigtigheid en bedrewenheid uit te voer deurdat:

- Hy versuim het in die volgende aspekte, om auditwerkspapiere of auditbewyse (alternatiewelik hy versuim het om voldoende of volledige auditwerkspapiere of auditbewyse) op te stel of te bekom of te behou in verband met sy audit van die [X] finansiële state. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde auditstandaarde en meer in besonder SAOS 230 en/of SAOS 500:
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende die verifikasie van die statutêre inligting of inligting in verband met aandelekapitaal;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse van vaste bates;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse van voorraad;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse van debiteure;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse van debietlenings;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse van kontant byderhand;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse van BTW;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse van krediteure;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse van bankbalanse;
 - ♦ daar was geen of onvoldoende werkspapiere of auditbewyse rakende toetse vir volledigheid van inkomste en uitgawes;
- Daar was geen rekord dat hy 'n aanstellingsbrief verkry het nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde auditstandaarde en meer in besonder SAOS 210.



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- Daar was geen rekord dat hy geskrewe bestuursverklarings verkry het nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 580.
- Sy oorwegings van die lopende saakbegrip was nie gedokumenteer nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder OU 294.
- Hy het nie prosedures om gebeure na die balansstaatdatum te identifiseer gedokumenteer nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 560.
- Hy het nie die ouditplan, wat die ouditrisiko, die ouditwesenlikheid en sy begrip van die rekeningkundige stelsels en die stelsels van interne beheer insluit, gedokumenteer nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 300 en/of SAOS 320 en/of SAOS 400.
- Hy het nie dié formaat van die ouditverslag soos uitgelê in SAOS 700 toegepas nie.

Tweede klag

Die praktisyn was skuldig bevind van 'n oortreding van dissiplinêre reël 2.1.5 deurdat hy, sonder redelike oorsaak of verskoning, versuim het om sy werk of pligte as ouditeur van [Y], wat werk of pligte was wat gewoonlik deur 'n geregistreerde rekenmeester en ouditeur uitgevoer word, met sodanige mate van omsigtigheid en bedrewenheid uit te voer nie, deurdat:

- Hy versuim het, in die volgende aspekte, om ouditwerkspapiere of ouditbewyse (alternatiewelik hy versuim het om voldoende of volledige ouditwerkspapiere of ouditbewyse) op te stel of te bekom of te behou in verband met sy oudit van die [Y] finansiële state. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 230 en/of SAOS 500:
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende die verifikasie van die statutêre inligting of inligting in verband met aandeelkapitaal;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse van direkteurslenings;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse van vaste bates;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse van onderdele in effekte-trustskemas;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse van kontant byderhand;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse van voorraad;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende die oorsprong van die inligting oor betalings gemaak deur debiteure en waarom die lys van debiteure nie ooreengestem het met die finansiële jaarstate nie;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse van BTW;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse van krediteure;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse van die rekonsiliasie van bankbalanse;
 - ♦ daar was geen of onvoldoende werkspapiere of ouditbewyse rakende toetse vir volledigheid en geldigheid van inkomste en uitgawes;
- Daar was geen rekord dat hy 'n aanstellingsbrief verkry het nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 210.
 - Daar was geen rekord dat hy geskrewe bestuursverklarings verkry het nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 580.
 - Sy oorwegings van die lopende saakbegrip was nie gedokumenteer nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder OU 294.
 - Hy het nie prosedures om gebeure na die balansstaatdatum te identifiseer gedokumenteer nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 560.
 - Hy het nie die ouditplan, wat die ouditrisiko, die ouditwesenlikheid en sy begrip van die rekeningkundige stelsels en die stelsels van interne beheer insluit, gedokumenteer nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 300 en/of SAOS 320 en/of SAOS 400.

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- Hy het nie die formaat van die ouditverslag soos uitgelê in SAOS 700 toegepas nie.

Vonnis

Die vonnis en redes van die Komitee, in Engels gelewer, was soos volg:-

The practitioner pleaded guilty to both of the charges which he faced. Notwithstanding the plea of guilty, the pro-forma complainant led evidence in support of the charges with a view to establishing the seriousness of the charges. The evidence was led of JB who had conducted the practice review which formed the subject matter of the charges. She was cross-examined by the practitioner. The practitioner had been found guilty of two counts of contravening disciplinary rule 2.1.5. These charges were based on his failure to carry out his duties as an auditor with a proper degree of care and skill in relation to the audits of the two companies which were reviewed in August 2000. The Committee considered the sentence from three perspectives: the offender, the offence and the community.

As regards the offender, the Committee took into account the following; the practitioner had suffered a tragedy during 1998 which had affected him badly. He had three previous convictions. Two were of limited relevance to these proceedings but the third conviction in 1999 was relevant. It related to another negative practice review in 1998, which in turn followed a prior negative practice review in 1996. The evidence showed a consistent failure to remedy the serious defects in earlier audits despite the suspended fine imposed in respect of the 1999 conviction, and despite numerous undertakings to improve.

The practitioner openly expressed a negative attitude towards performance of the attest function. Although he pleaded guilty he made statements which showed a lack of remorse. He failed to take advantage of the opportunities for improvement offered by the practice review system.

As regards the offence, the Committee took into account the following; given that it was the third negative practice review with no signs of improvement, it was a serious offence. The accounting and auditing professions are under great pressure to ensure the maintenance of professional standards, yet the practitioner had flagrant disregard at these.

As regard the community, conduct of the kind of which the accused was found guilty places the profession's reputation at risk. It also has the potential to prejudice the

broader public who are entitled to be able to place reliance on opinions expressed by auditors in the conduct of the attest function.

In the circumstances the Committee imposed the following sentence: the practitioner's name was removed from the register of Accountants and Auditors and he was disqualified from registering as an accountant and auditor subject to the following qualifications: he may apply for re-registration after an expiry of three years, from date of hearing, upon production to the Board of a satisfactory report by the Practice Review Committee.

He was ordered to contribute towards the costs of the hearing in the amount of R15 000.

The Committee recommended that the findings and punishment, together with the name of the practitioner and that of his firm, be published in *Maneo*.

THIRD MATTER

Op 14 November 2002 het die Komitee die saak teen Mnr B gehoor. Hy was teenwoordig, maar nie verteenwoordig nie. Daar was twee klagtes teen hom voorspruitend uit sy praktyk oorsig. Dit was sy derde oorsig in die tweede siklus Hy het skuldig gepleit en was skuldig bevind aan al twee klagtes.

Eerste klag

Die praktisyn was skuldig bevind aan 'n oortreding van dissiplinêre reël 2.1.5 deurdat hy, sonder redelike oorsaak of verskoning, versuim het om sy werk of pligte as ouditeur van [X], wat werk of pligte was wat gewoonlik deur 'n geregistreerde rekenmeester en ouditeur uitgevoer word, met sodanige mate van omsigtigheid en bedrewenheid uit te voer, deurdat:

- Hy versuim het, in die volgende opsigte, om audit-werksopiere of auditbewyse (alternatiewelik hy versuim het om voldoende of volledige auditwerksopiere of auditbewyse) op te stel of te bekom of te behou in verband met sy audit van die [X] finansiële state. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde auditstandaarde en meer in besonder SAOS 230 en/of SAOS 500:
 - ♦ daar was geen of onvoldoende werksopiere of auditbewyse rakende die bestaan, waardasie of eienaarskap van die maatskappy se beleggings;
 - ♦ daar was geen of onvoldoende werksopiere of audit-



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bewyse rakende die bestaan, waardasie of eienaarskap van intermaatskappy beleggings;

- daar was geen of onvoldoende werksapere of ouditbewyse rakende die aandele-kapitaal van die maatskappy en die werksapere wat bestaan het, het nie ooreengestem met die finansiële state nie. Wesenlike bewegings van aandele-kapitaal het in die jaar voorgekom waarop geen werk gedokumenteer was nie;
- daar was geen of onvoldoende werksapere of ouditbewyse rakende die volledigheid, bestaan en akkuraatheid van krediteure;
- daar was geen of onvoldoende werksapere of ouditbewyse rakende die aard, omvang en tydsberekening van toetse uitgevoer in verband met inkomste van die maatskappy nie. Die werksapere wat bestaan het verskil van die finansiële state, welke verskil 'n finale joernaalinskrywing verteenwoordig het. Daar was geen ouditbewyse dat die geldigheid van die joernaalinskrywing bevestig was nie;
- daar was geen of onvoldoende werksapere of ouditbewyse rakende toetse vir uitgawes van die maatskappy;
- daar was geen of onvoldoende werksapere of ouditbewyse rakende toetse vir salarisse wat deur die maatskappy betaal is;
- daar was geen of onvoldoende werksapere of ouditbewyse rakende debietlenings. Verhaalbaarheidsoorwegings was nie gedokumenteer nie. Alhoewel 'n skedule op lêer geplaas was, was die geldigheid van die bewegings nie gedokumenteer nie;
- daar was geen of onvoldoende werksapere of ouditbewyse rakende eksterne bevestiging van balanse van aandeelhouerslenings of rakende geldigheidstoetse van bewegings in die aandeelhouerslenings; Sy werksapere het ook nie ooreengestem met die finansiële state van die maatskappy nie.
- daar was geen of onvoldoende werksapere of ouditbewyse rakende die geldigheid van die rekonsilieërende items van die bankrekening;
- Sy werksapere het wesenlike kredietlenings (intermaatskappy) aangedui wat nie op die finansiële state van die maatskappy voorkom nie.
- Hy het nie prosedures om gebeure na die balansstaatdatum te identifiseer gedokumenteer nie. Hy het derhalwe versuim

om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in die besonder SAOS 560.

- Sy oorwegings van die lopende saakbegrip was nie gedokumenteer nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 570.

Tweede klag

Die praktisyn was skuldig bevind aan 'n oortreding van dissiplinêre reël 2.1.5 deurdat hy, sonder redelike oorsaak of verskoning, versuim het om sy werk of pligte as ouditeur van [Y], wat werk of pligte was wat gewoonlik deur 'n geregistreerde rekenmeester en ouditeur uitgevoer word, met sodanige mate van omsigtigheid en bedrewenheid uit te voer, deurdat

- Hy versuim het, in die volgende opsigte, om ouditwerksapere of ouditbewyse (alternatiewelik hy versuim het om voldoende of volledige ouditwerksapere of ouditbewyse) op te stel of te bekom of te behou in verband met sy oudit van [Y] se finansiële state. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 230 en/of SAOS 500:
 - daar was geen of onvoldoende werksapere of ouditbewyse rakende toetse vir verhaalbaarheid, bestaan en geldigheid van debiteure;
 - daar was geen of onvoldoende werksapere of ouditbewyse rakende toetse in verband met die aard, omvang en tydsberekening van prosedures uitgevoer in verband met inkomste nie en daar was ook geen dokumentasie in verband met toetse op die volledigheid van inkomste nie;
 - daar was geen of onvoldoende werksapere of ouditbewyse rakende toetse in verband met die aard, omvang en tydsberekening van prosedures uitgevoer in verband met uitgawes nie;
 - daar was geen of onvoldoende werksapere of ouditbewyse rakende die omvang en tydsberekening van toetse uitgevoer in verband met debietlenings, en daar was geen verhaalbaarheidsoorwegings gedokumenteer nie. Die werksapere van die praktisyn het ook nie ooreengestem met die finansiële state van die maatskappy nie;
 - daar was geen of onvoldoende werksapere of ouditbewyse rakende opgeloopte uitgawes;
- Daar was geen rekord dat hy geskrewe bestuursverklarings verkry het nie. Hy het derhalwe versuim om te voldoen aan

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algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 580.

- Hy het nie sy begrip van die rekeningkundige stelsels en die stelsels van interne beheer asook sy kennis van die besigheid, gedokumennteer nie. Hy het derhalwe versuim om te voldoen aan algemeen aanvaarde ouditstandaarde en meer in besonder SAOS 310 en/of SAOS 400.

Vonnis

Die vonnis en redes van die Komitee, in Engels gelewer, was soos volg:-

Although the practitioner had pleaded guilty to both main charges, the Disciplinary Committee in its discretion required evidence to be led as to the charges. The Committee heard the evidence of MC. She informed the Committee that the practitioner's practice had undergone three reviews. She conducted the third review in the second cycle. Her findings were to be found in the bundle of documents before the Committee. She pointed out that the practitioner had had six weeks' notice of the review. One of the files reviewed had been reviewed on the two previous occasions. Her report on her review appears in the bundle. She was not satisfied with the standard of his auditing practices. The shortcomings were serious and related to material items. She pointed out that there was little or no improvement in the auditing standards applied over the period of the three reviews. The practitioner had no questions for her. The Committee asked one question to confirm that the same client file had been reviewed on three occasions. In the circumstances the Committee confirmed that it found the practitioner guilty on the two main charges.

The practitioner gave evidence in mitigation. He confirmed the explanation set out in his letter, which was to be found in the bundle. He stated that he had taken steps to ensure that there were people employed in his practice to deal properly with the audit function. He brought the 2002 audit files with him to the hearing and proffered them for inspection. He stated that they demonstrated a marked improvement. The problems demonstrated by the review were as a result, he said, of practice pressures. He is presently a sole practitioner, but his assistant will be made a partner as from 1 March 2003. There are twelve staff employed in his practice. About 50% of his practice is made up of attest function work. He gave evidence as to his personal circumstances and the quality of the balance of his practice, which was taken into account by the Committee.

The pro-forma complainant addressed the Committee on

sentence and pointed out the importance of adherence to auditing standards, particularly in the present climate. The pro-forma complainant asked the Committee to take into account that despite three reviews over three years there had been no improvement in the practitioner's auditing standards. The shortcomings revealed by the Practice Review were serious. However he pointed out that the practitioner had been entirely frank and co-operative in the proceedings and has taken steps to improve the situation.

After deliberation and taking into account all the evidence the decision of the Committee was as follows:

The practitioner was found guilty of the main count on the first and second charges.

The punishment imposed was the following:

The practitioner was suspended from practice as an auditor for a period of two years, which suspension was in turn suspended for a period of three years on condition that he is not convicted within the period of suspension, of a similar offence under disciplinary rules 2.1.5 or 2.1.21.

A further practice review of the practitioner's practice must be undertaken within a period of one year from the date of the hearing in respect of audit files covering the 2003 financial year end.

The practitioner, his partners if any, and professional staff must attend a practice review workshop conducted by the Practice Review Department prior to completion of the 2003 year end audits.

The suspended fine imposed by the Investigation Committee on 27 November 2001 was brought into effect.

A further fine of R15 000 was imposed.

The practitioner was ordered to pay a contribution towards the costs of the hearing in the sum of R10 000.

Publication of the facts of the matter and the decision of the Committee, but not the name of the practitioner or his practice, to be published in *Maneo*.

REVIEWS

In issue 29 (December 2001) I mentioned that a practitioner who was heard on 6 August 2001, and who was struck from the register and permanently disqualified from re-registration, had indicated that he intended to take the Disciplinary



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Committee's finding on review. The Application for review was heard in the High Court, Pietermaritzburg, on 24 February 2003 and I am pleased to state that the Application was dismissed with costs, and that the judge

found that the Disciplinary Committee had acted completely properly throughout the proceedings. ■

— JANE O'CONNOR

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From 1 October 2002 to 31 January 2003

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Bhagwandin *Vinesh*
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Brandt *Annalie Barbara*
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From 1 October 2002 to 31 January 2003

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Carpenter *Rodney Donovan*
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Graham *Brian Donnelly*
Martin *Renier*
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From 1 October 2002 to 31 January 2003

Abrahams *Julius (deceased)*
Amler *Vernon (emigrated)*
Baybut *Leonard John (resigned)*
Bazzard *Stuart Edward (resigned)*
Belitzky *Harry (resigned)*
Best *Gregory Arn (resigned)*
Birrell *Susan Elizabeth (emigrated)*
Bloch *Stanley (deceased)*
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Bosman *Hermanus Francois (resigned)*
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Wolpert *Sydney Louis (resigned)*



MANEO

OBITUARY

GJ POWELL

"It was with great regret that we learned of the passing of our friend and colleague Bushy Powell on 8 January 2003, due to cancer.

Bushy passed away at the age of only 42, leaving behind his beloved wife and 4 children."

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