

**COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT CORPORATION**

**HELD AT**

**TSHWANE, PRETORIA**

10

**23 JANUARY 2019**

**DAY 3**

20

**PROCEEDINGS HELD ON 23 JANUARY 2019**

**CHAIRPERSON:** Yes Mr Lubbe?

**ADV JANNIE LUBBE SC:** Good morning Mr Commissioner and members. We are ready to proceed. I've placed before you Mr Commissioner and your members, just for the record, a copy of the media release of the PIC which was released yesterday as it will tie in with the evidence of the witness I'm calling this morning, he's ready to take the oath.

**CHAIRPERSON:** Please stand up. Your full names please?

**MR LUFUNO NEMAGOVHANI:** I am Lufono Emanuel Nemagovhani.

10 **CHAIRPERSON:** Do you have any objections to taking the prescribed oath?

**MR LUFUNO NEMAGOVHANI:** No.

**CHAIRPERSON:** If none then do you swear that the evidence you're about to give will be the truth, the whole truth and nothing but the truth, raise your right hand and say so help me God.

**MR LUFUNO NEMAGOVHANI:** So help me God.

**CHAIRPERSON:** Thank you.

**ADV JANNIE LUBBE SC:** Thank you. Mr Lufuno can you start please by telling the Commission who you are and your qualifications, background.

**MS GILL MARCUS:** Sorry it's a little bit unclear, maybe the mic needs to be closer.

20 **ADV JANNIE LUBBE SC:** Thank you Mr Commissioner. Can you just start your evidence by telling the Commission who you are, when you were employed by the PIC and your academic qualifications.

**MR LUFUNO NEMAGOVHANI:** My name is Lufuno Emanuel Nemagovhani. I was employed by the PIC in October 2015 in the capacity of Head of Internal Audit and I still hold the same position today. My qualifications include Certified Internal Auditor,

Bachelor of Commerce Honours, Accounting Certificates in Theory of Accounting, Intermediate Diploma in Accounting, National Diploma in Internal Audit, and I'm a registered Government Auditor.

**ADV JANNIE LUBBE SC:** Thank you. Can you start your evidence to explain to the Commission the role of internal audit in general and then in particular in the PIC?

**CHAIRPERSON:** Sorry Mr Lubbe can I just, because yesterday or the day before there was a statement that we had, I think, I can't remember, there was a statement that the copies that we had were unsigned.

**ADV JANNIE LUBBE SC:** Yes.

10 **CHAIRPERSON:** And I was just wondering whether you, in fact we can talk during the break and you can give us a signed copy of the statement.

**ADV JANNIE LUBBE SC:** Thank you Commissioner I was ... (intervention)

**CHAIRPERSON:** I note that in this one as well the witness's statement is unsigned, the ones that we have, yours might be signed but ...?

**ADV JANNIE LUBBE SC:** I was informed by the secretariat and it will be sorted out during the tea adjournment.

**CHAIRPERSON:** But just in respect of paragraph 1 the second paragraph:

"I was employed by the PIC during October 2015 and I've been in its employ since then with interrupted service."

20 Should that be uninterrupted?

**ADV JANNIE LUBBE SC:** I think that is correct, can you just confirm that?

**MR LUFUNO NEMAGOVHANI:** I confirm that.

**ADV JANNIE LUBBE SC:** Please proceed.

**MR LUFUNO NEMAGOVHANI:** Mr Commissioner if also I can just make an administrative correction on page 3 on the second paragraph the last section there

where it starts with:

“I am currently employed as the Head of Internal Audit and report directly to the Audit and Risk Committee Functionary and the CEO of the PIC.”

I just want to make a correction that after the ‘and’ it’s supposed to read “and administratively to the CEO of PIC.”

**ADV JANNIE LUBBE SC:** Thank you.

**MR LUFUNO NEMAGOVHANI:** I can proceed?

**ADV JANNIE LUBBE SC:** Yes please.

**MR LUFUNO NEMAGOVHANI:** Thank you. So Mr Commissioner the PIC Internal  
10 Audit Department is a critical function for helping the business to achieve its objective within acceptable risk boundaries through the provision of independent and objective assurance and consulting services to the business which are informed by existing company policies, applicable loss and regulations as well as standards and best practice frameworks. The assurance and consulting services entail the assessment of adequacy and effectiveness of PIC governance, risk management and internal control systems and processes and in so doing foster a risk and control conscious culture across the entire business.

Internal Audit operates as the third line of defence within the combined  
20 assurance and the distinction between its responsibilities and those of other assurance providers. It’s summarised in the diagram below.

**ADV JANNIE LUBBE SC:** Thank you. Mr Commissioner can we accept that it’s not necessary to read out everything in the diagram and he continue in paragraph 4?

**CHAIRPERSON:** Yes.

**ADV JANNIE LUBBE SC:** Thank you, you can proceed.

**MR LUFUNO NEMAGOVHANI:** Authority of Internal Audit. The authority of Internal

Audit is defined in the Audit Charter which is approved by the Audit and Risk Committee of the PIC.

**ADV JANNIE LUBBE SC:** Can we, sorry, can we from now on just refer to ARC, everybody now knows what is the Audit and Risk Committee, okay thank you.

**MR LUFUNO NEMAGOVHANI:** In terms of the Charter Internal Audit is authorised is audit or examine any areas of the business, helpful and unrestricted access to all the PIC functional areas, records, assets and employees, determine the scope of its work which will be selected audit areas. Techniques required to accomplish audit objectives and manages its allocator resources without undue influence from management. Utilise  
10 the services of experts in executing some of its activities where it does not have internal capacity. With respect to the independence, in order to facilitate independence and objectivity of the Internal Audit function which allows for the impartial and unbiased performance of its activities the Head of Internal Audit has a dual reporting line functionally to the Audit and Risk Committee on issues such as approval of charter, audit plans, communication of audit results and administratively to the Chief Executive Officer on issues such as compliance with PIC policies and Human Resource Administration.

The Internal Audit Department also does not have any direct operational responsibilities for the areas they review. It will not implement internal controls,  
20 develop procedures, install systems, prepare records or engage in any other activity that may impair its independence. In addition the scope of each audit procedure to be performed, frequency, timing and content of reports are not subject to management influence.

**ADV JANNIE LUBBE SC:** Can I just then interrupt you. The important point you're making is that you perform independently of the PIC although you're employed by

them?

**MR LUFUNO NEMAGOVHANI:** Yes.

**ADV JANNIE LUBBE SC:** And is the position that the Audit Charter is reviewed annually by the Audit Committee?

**MR LUFUNO NEMAGOVHANI:** Yes the Audit Charter together with the Internal Audit three year rolling plan it's submitted to the Audit Committee annually for review and approval.

**ADV JANNIE LUBBE SC:** Yes and the three year rollout plan is then annually reviewed and can be changed or added to?

10 **MR LUFUNO NEMAGOVHANI:** Yes it's reviewed annually and it is changed where necessary to make sure it's aligned with the current business strategies and processes.

**ADV JANNIE LUBBE SC:** Thank you, please carry on.

**MR LUFUNO NEMAGOVHANI:** The scope of Internal Audit responsibilities includes amongst other things, the assessment of the adequacy and effectiveness of management systems, policies and procedures in indentifying and managing risks, the effectiveness and efficiency of management systems for achieving PIC objectives considering organisational risk, effectiveness and efficiency of the PIC means in safeguarding its assets, the adequacy and effectiveness of internal control systems, compliance with loss regulation PIC policies and delegated authorities. The reliability  
20 and security of information systems utilised by business as well as the adequacy and effectiveness of IT operations and governance processes.

**ADV JANNIE LUBBE SC:** Thank you, carry on.

**MR LUFUNO NEMAGOVHANI:** Internal Audit executes its responsibilities by ... (intervention)

**MR EMMANUEL LEDIGA:** Question, so one would take that given that you want to be

separate from the business I mean one would take that maybe you sit in a different area and do you have cordial sort of relations with the management in general?

**MR LUFUNO NEMAGOVHANI:** To foster the independence of Internal Audit, yes Internal Audit it has got its own division where it's only Internal Audit employees that sits in that division. In order for the Internal Audit to be able achieve its mandate which is to add value to the organisation and also to have the organisation to achieve its objective by ensuring that there are strong internal controls, the risk management strategies that are in place are effective and the governance process are effective. Internal Audit is supposed to have a professional relationship with management.

10 **MR EMMANUEL LEDIGA:** Meaning you don't go to eat with them, go to the company bar with them and chat and all that?

**MR LUFUNO NEMAGOVHANI:** There is no social relationship hence I said it's a professional relationship so, but I cannot avoid you know sitting with them in case we are in the same meeting, you know I need to be with them in that same meeting.

**MR EMMANUEL LEDIGA:** Thank you. Thanks.

**ADV JANNIE LUBBE SC:** Thank you.

20 **MR LUFUNO NEMAGOVHANI:** Internal Audit executes its responsibilities by developing and maintain an audit methodology that is aligned to the internal audit standards in line with the Institute of Internal Auditors. Preparing a risk based annual internal audit plan specifying audits to be conducted during that particular year. So as Internal Audit we follow a risk based audit approach in terms of identifying the areas that we need to focus on. Executing planned and ad hoc audit engagements in line with the audit methodology, so there might audits that are not part of the approved audit plan. These audits we may be requested by management to conduct audits in particular areas or by the Board or any subcommittee of the Board. So in terms of our

mandates enshrined in the Charter of Internal Audit we can perform those ad hoc audits as long as we get approval from the Audit Committee.

**ADV JANNIE LUBBE SC:** That's the point I want to make, if you get a request from management to perform a specific audit that must be authorised by the Audit Committee?

**MR LUFUNO NEMAGOVHANI:** Yes. Issuing appropriate written reports following the conclusion of each audit and distributing the reports to the appropriate parties; monitoring management's implementation of corrective actions resulting from audit findings and providing assessments of progress on such actions. Reporting periodically  
10 to senior management and the audit and risk committee on the results of audit activities and assessment of corrective actions and providing consulting or advisory services on key projects or activities of strategic importance to the business. Liaising and coordinating efforts with other external assurance providers to identify areas of possible reliance. So we will liaise with external auditors or any other assurance providers that is conducting an assurance activity within the PIC to identify you know areas of possible reliance especially you know them maybe relying on our work or us you know just to avoid duplication in terms of assurance, but also to ensure that the assurance that is being given to the PIC it's adequate.

**ADV JANNIE LUBBE SC:** Just to make that clear, with the annual audit which is  
20 normally performed by the Auditor General and if the work you have done falls into the scope of their audit they can then decide to rely or not to rely on the work you have performed during the year?

**MR LUFUNO NEMAGOVHANI:** Yes.

**ADV JANNIE LUBBE SC:** Thank you, carry on.

**MR LUFUNO NEMAGOVHANI:** The activities of Internal Audit Department are subject

to quality assurance reviews internally on an annual basis by audit management and externally after every five years by a service provider approved by the Institute of Internal Audit.

**ADV JANNIE LUBBE SC:** Just to make that clear that is a review by the Institute of Internal Audit it is not a review by the Auditor General?

**MR LUFUNO NEMAGOVHANI:** Yes, this is not a review of the Auditor General. The Auditor General will look at the internal audit function you know the independence of the objectivity when they are looking at our work, especially in areas where there is possible reliance. So they need to satisfy themselves that we were independent, we were objective and the work that we have done we have complied with the standards that we are supposed to comply with.

**MR EMMANUEL LEDIGA:** Question, do you have term limits for somebody who sort of, somebody who runs that department like you, are there term limits can you run this department for 20 years or there are term limits?

**MR LUFUNO NEMAGOVHANI:** My position currently as it stands it's a permanent position but I've been in this position only for three years.

**MR EMMANUEL LEDIGA:** So there are no term limits?

**CHAIRPERSON:** Your term in that position does not expire?

**MR LUFUNO NEMAGOVHANI:** Yes, it's a permanent position yes.

20 **CHAIRPERSON:** Thanks.

**ADV JANNIE LUBBE SC:** I think what you're asking Mr Commissioner is there's a big drive now for rotation of external auditors in business entities, it is not the same problem with regard to Internal Audit, there's not the same cry out for rotation and for Internal Audit people to be replaced after six or eight years.

**MR LUFUNO NEMAGOVHANI:** Yes there isn't anything currently but maybe I should

also state that the independence of the Internal Audit Division it's reviewed annually also by the Audit Committee they need to assess whether the Internal Audit Division, based on the reports and interactions with the Head of Internal Audit and other management from Internal Audit Division whether do they appear to be independent in terms of the work that they are mandated to do. But also the Auditor General as I indicated earlier on when they look at our reports they consider the independence of the Internal Audit Division. But currently there is nothing in terms of the law or the standard which prescribes the term of the Head of Internal Audit. The only standard that exists it's about the independence and the objectivity of the Internal Audit Division.

10                   Sources of input to the Internal Audit Plan; in order to create value and help the organisation to achieve its objectives the Internal Audit Department draws input for the audit plan from the following amongst other source: corporate level and business unit level strategies, internal audit risk assessment based on the PIC's strategic objectives, corporate risk registers and departmental risk registers, liaison with internal and external assurance providers, audit and risk committee, business management, the international professional practice framework promulgated by the Institute of Internal Auditors. Currently Internal Audit planning has a three year horizon and the three year plan is subject to annual review to ensure it remains relevant to the business. The audit plan for each financial year is also subject to quarterly review. So on a quarterly

20                   basis we will look at the plan and look at the environment within the business and evaluate if there's a necessity you know to change some of the projects that had been approved by the Audit Committee and if it's necessary we will approach the Audit Committee to approve those changes.

Audit approach and methodology: when developing the audit plan Internal Audit follows a risk based approach in prioritizing auditable areas identified from the

risk universe. The execution of each individual audit follows four phases namely; the planning, field work, reporting, and audit follow ups. The planning phase the key activities within the planning phase includes amongst other things the introduction of the audit to management, declaration of possible conflict of interest, performing a walkthrough of the audit area, performing preliminary reviews, determining the sampling methodology, determining sample sizes, preparation and communication of engagement letter with the audit scope to the client.

In the field work phase the field work stage entails the testing of the adequacy and effectiveness of controls within applicable areas or business processes.

- 10 The test procedures that are utilised are designed to provide reasonable but not absolute assurance that controls are properly designed and working effectively. Internal Audit uses sample based testing when selecting transaction to audit. This means that a sample of transaction is chose in line with the audit methodology which is sufficient to provide reasonable assurance regarding the entire data or population.

In the reporting stage it entails preparing the audit report, discussing issues with management, obtaining management comments regarding identified issues and communication of findings to senior management and the Audit and Risk Committee.

- 20 The follow up stage, this stage entails assessing whether management has implemented measures to resolve previously reported audit issues and whether the measures taken are sufficient.

The service lines or the focus areas that we focus on as Internal Audit within PIC in respect of assurance and also consulting services are the following; Listed Investments, Unlisted Investments, Investment Support and Operations, Information Technology.

**ADV JANNIE LUBBE SC:** We will later deal with your preliminary investigation into the

Ayo matter, that is then a matter that falls under the Listed Investments?

**MR LUFUNO NEMAGOVHANI:** That's correct.

**MS GILL MARCUS:** Sorry can I just ask you in proportional terms what is the proportion of assurance and consulting work that you do because there might well be a conflict of interest if you're doing consulting services and your audit approach?

**MR LUFUNO NEMAGOVHANI:** Consulting work that we do it only comprises 9% of the total work that we do. So ... (intervention)

**MS GILL MARCUS:** In your provided consulting services how do you audit the areas that you've provided consultation to?

- 10 **MR LUFUNO NEMAGOVHANI:** The areas or the transactions that we have consulted, I mean on, in line with our audit methodology and also the standard practices we have to take a break for a year in that particular area or what can be done so within the Internal Audit Division like for example in IT, we have a resource that focuses because there's a lot of projects under IT that we need to consult on to ensure that those projects are successful and add value to the organisation. So we have a permanent resource that looks or works on those projects and that resource is the Senior IT Project Auditor that will be helping with that. But in other areas where we consult so in line with the audit standards we need to put measures in place like for example we have a team so that comprises of a number of professional auditors within the Internal
- 20 Audit Division. So another mechanism that can be used is to send a different person in the area instead of the Internal Audit or we can put a measure whereby if it's an area that other assurance providers will be focussing on we don't audit it we will engage with other assurance providers to look at that area.

**MR EMMANUEL LEDIGA:** Question, can you give us a sense of the size of your team and what you guys do on a day-to-day basis please?

**MR LUFUNO NEMAGOVHANI:** So the size of the team in terms of the Internal Audit Organizational Structure we have got eight in positions.

**CHAIRPERSON:** Paragraph 15?

**MR LUFUNO NEMAGOVHANI:** Yes, we can refer to paragraph 15 I think we have provided that information, yes at the end. So that's the staff complement of Internal Audit. On a day-to-day basis what we do is to audit and to follow up as we indicated under our methodology so that's what we go to PIC to do on a daily basis.

Assurance and consulting engagements, these audits in assurance engagement, these audits, internal audit objective, examination of evidence on a particular  
10 subject matter, area of scope against established criteria or standard for the purpose of expressing a conclusion designed to enhance the degree of confidence of the internal users, other than the responsible party about the outcome of the evaluation. In assurance engagements, internal audit expresses reasonable and not absolute assurance on the adequacy and effectiveness of internal controls.

Consulting engagements. This intends the provision of advisory services, the nature and scope of which is agreed upon with the audit client and whose objective is to help strengthen the client's governance, risk management and internal control processes. Examples include providing advisory services on strategic projects providing input in developing policies, procedures and participation in committee meetings among other  
20 things. In all instances the role of internal audit is limited to providing advice and direction without assuming any management responsibility over the area or making any management decision.

Section 13, Fraud. Management is responsible for designing and implementing measures to facilitate the prevention and detection of fraud. Internal audit is empowered to or has authority to investigate cases of suspected fraud involving employees of the PIC.

Employees can report suspect cases either anonymously through the whistle blower hotline managed by whistle blower company or directly to their line managers or to the CEO if the line manager is conflicted.

**ADV JANNIE LUBBE SC:** Can you just elaborate a bit more on this? Is this hotline only available to employees or can the public also access that hotline?

**MR LUFUNO NEMAGOVHANI:** This hotline is available to both the employees and the public.

**ADV JANNIE LUBBE SC:** And just to give an example. If a person phones into this hotline how will this report be dealt with?

10 **MR LUFUNO NEMAGOVHANI:** So according to – so when a matter is reported to the whistle blower company they will capture the information from the informant and then they submit a report and that report is submitted via email to internal audit and risk. So – and there is...(intervention)

**ADV JANNIE LUBBE SC:** I'm sorry, I think you're going to give the answer to what I was supposed to ask. Why risk and internal audit?

**MR LUFUNO NEMAGOVHANI:** So the reason why internal audit and risk it's for in case – so both internal audit and risk, I mean they are assurance providers as much as at different level. So they are sitting at the second line of defence and we are the third line of defence but the main reason why it has a dual reporting line is because in case  
20 there's a matter that it's being reported and that matter affects internal audit so that there is another department that will be aware of that better and be able to take it forward.

**MR EMMANUEL LEDIGA:** Question. Can you give us a sense of some stats within this whistle blowing hotline? I mean how many complaints do you get generally say in the past three years or so and which – sort of what percentage do you act on? What percentage don't you and do you get back to the people who make those calls?

**MR LUFUNO NEMAGOVHANI:** So in terms of the percentage, I mean I don't have the information with me but all I can say is that there are months where it's dry like this, nothing that will come through via the hotline and the amount when, you know, there will be issues that will be reported so in a year, I mean, you may deal with let's say less than five cases or more depending on, you know, if it's an extraordinary year. All the issues that we – I mean, that we receive, if there is sufficient information I'm saying if there is sufficient information because sometimes some of the reports that you will receive it will be saying we have observed by somebody who didn't identify himself irregularities within PIC without even giving you a clear sense of where are these irregularities taking place  
10 by who and they say, you know, they prefer to remain to their identity not to be disclosed.

So it's difficult to add on something like that. So in those cases usually what we will do, we will respond to the whistle blower company and say they need to contact the person if they have the contact details and ask for more information so that we can be able to deal with this matter effectively because it is difficult for us to appoint a service provider or to do anything without substance, you know, in terms of information in the report.

So all the matters that we receive, they receive adequate attention, they are acted upon, they are looked at, they are evaluated and where necessary we also involve external service providers to assist us in these matters.

20 **MR EMMANUEL LEDIGA:** And the whistle blowers are confident that they are protected under the whistle blower Act and all that generally. Do you protect them and do they feel protected?

**MR LUFUNO NEMAGOVHANI:** Yes, based on my knowledge and experience whistle blowers are protected and it is also articulated in the corruption and fraud and nepotism prevention policy of the PIC.

**MR EMMANUEL LEDIGA:** Thank you.

**MR LUFUNO NEMAGOVHANI:** Reports of suspected fraud received through the whistle blower hotline are automatically routed to the executive head of risk as well as the head of internal audit. The CEO has overall responsibility for PIC response to fraud, corruption and nepotism. For this reason, allegations or reports of suspected fraud are discussed with the CEO before any work is done except if the CEO is conflicted.

Investigations are either conducted internally by the internal audit department or any other PIC party determined by the CEO or the board if they are outsourced to external service providers in cases where internal audit or PIC does not have capacity  
10 or depending on the nature of the case.

The investigation reports are communicated to both the CEO and the audit and risk committee and if the CEO is conflicted or is the subject of the investigation the report is communicated directly to the Chairperson of the board or a committee or a board member delegated by the board.

Whistle blowers periodically send PIC a report of all cases reported through that platform. This report is submitted to the social and ethics committee and the audit and risk committee periodically, so on a regular basis or quarterly if, you know, there are cases obviously. We will report firstly the cases to the audit and risk committee. We informed them that these are the cases that we have received and this is how we are  
20 dealing with those cases and then also at the time when the investigation is completed we go back to the audit committee and report on the outcome of these matters but we also report to the social and ethics committee with respect to the activities of the hotline to say how many cases have we received, what were the nature of the issues, you know, for them to be able to assess if there are any ethical, you know, risks that are posed to the system or to the organisation.

The difference between audit and investigation, this audit and audit focuses on the objective examination of records. Evidence relating to particular system or processes based on established criteria in order to express an opinion and the adequacy and effectiveness of controls within the system or process and audit is therefore system process orientated. The scope is generic and the nature of evidence obtained is persuasive.

Investigation. An investigation is a detailed examination of records, evidence undertaken in response to reports of impropriety or irregular conduct and focuses on a person against whom the allegations have been made. The scope is specific and the  
10 nature of the evidence obtained from an investigation is conclusive.

Investigations are usually performed by experts using forensic procedures. Mr Commissioner, I think I've already covered the part about the resources of internal audit. Thank you.

**ADV JANNIE LUBBE SC:** Mr Commissioner, I'm not going to deal with two matters that internal audit dealt with in 2018 and I will start off with the first matter that received widespread publicity in the press regarding allegations that the former CEO, Dr Matjila, was involved in impropriety regarding a loan to MSD and financial assistance to a so-called girlfriend which was identified as Ms Pretty Louw.

Can you just – and I want you – there was a full investigation by my colleague  
20 Budlender SC with a report dealing with this matter, I just want you to briefly deal and tell the Commissioner about your involvement in this matter.

**MR LUFUNO NEMAGOVHANI:** So our involvement in this matter began when the board in a special board meeting that sat on the 15 September 2017 after they received emails which were sent to the whole organisation and also to the board members. Then in that special board meeting...(intervention)

**ADV JANNIE LUBBE SC:** Can I just interrupt, sorry. Those were anonymous emails or not?

**MR LUFUNO NEMAGOVHANI:** So those emails, I mean, were coming from an email with an email address which says Jim Snuko(?) so but within PIC I don't know anyone who is called Gem Snuko. So – can I continue?

**CHAIRPERSON:** Yes please.

**MR LUFUNO NEMAGOVHANI:** Yes. So in that sitting of the 15 September 2017 the board in an *in camera* meeting they deliberated on these emails which contained all these allegations and then during the meeting I was called into the board meeting to join  
10 the board meeting and when I joined I was told by the board that there is these allegations that we have received via emails, we would like you to assist the board by looking into these matters or they indicated if I can just be maybe, you know, called.

They said we would like you to investigate these matters and then in that meeting I indicated that looking at the matter or the nature of the matter, the complexity of this matter and also the level against which this matter have been, you know, raised. I think it will be appropriate – yes, as internal audit we will assist but will like to outsource these matters so that they can be dealt with by an external qualified person.

And we also in that meeting discussed the issues around procurement, how will it be handled because in terms of the fraud, corruption and nepotism policy the CEO,  
20 he's the one that is supposed to approve the appointment of service providers and in this case he was conflicted in these matters. So the board had to delegate somebody to assist with the procurement.

Then in that meeting the board appointed a member of the audit risk committee to be the contact person for internal audit in case we need anything in dealing with this matter and then I was excused from that sitting. After a while I was called back

to join the proceedings again.

**ADV JANNIE LUBBE SC:** Was it the same day?

**MR LUFUNO NEMAGOVHANI:** This is the same day. Then when I went back into the meeting I was told that, if I can quote, these are marching orders.

**ADV JANNIE LUBBE SC:** What did you understand by marching orders?

**MR LUFUNO NEMAGOVHANI:** This is the instruction now from the board so the board reviewed the initial decision that they have made and this is now a revised decision by the board. So a member of the board, you know, take me through the deliberations of the board or the decision of the board. So the decision was saying that you are no  
10 longer required now to conduct a forensic investigation into these matters. What you are going to do because the CEO on the day had given the board written responses together with supporting documents to his responses. Now what I needed to do, according to the board, I have to review the responses and validate those responses and validate the documents that the CEO has submitted and also validate whether processes were followed and then it was agreed in that meeting that this scope will be documented and it will be submitted to me after the meeting of which it was done, it was documented, I was given the scope and then we performed the work based on that scope.

And based on that scope we could not identify any – we could not validate the allegations. Or let me put it this way, based on the scope we confirmed that the CEO,  
20 the documents that he submitted to the board, were valid documents, the processes that we were supposed to test, they were followed according to PIC policies and the responses that were given except for one matter that – he responded to all the matter except for one matter where he did not respond directly and this was the matter in relation to the allegation that the CEO has given instruction to a director of an investing company to fund the alleged girlfriend.

And then also in the scope the board had indicated that internal audit should not use any external resources so we need to use our own resources and also it was indicated in this hope that we should not also look at issues that relates to personal relationships.

**ADV JANNIE LUBBE SC:** So, if I understand you correctly, the allegation about the funding of MSD finding was there's absolutely not substance in that allegation, is that correct?

**MR LUFUNO NEMAGOVHANI:** Yes, so the allegation was saying that PIC has used the CSI money to fund the alleged girlfriend. I think the amount in terms of the allegation, I  
10 think it was 21 million or 23 million. So during around assessment or during that execution of the work that we were instructed to do by the board there was no CSI funding to the alleged girlfriend or MST of the amount of 21 million. There was a loan under assets under investment which was extended to MST of 21 million but also, there was the CSI funding of 5 million that was given to MST.

**ADV JANNIE LUBBE SC:** Did you also deal with the second part of the investigation, were you involved?

**MS GILL MARCUS:** Sorry, just a question on that, was that loan ever repaid? Was there any evidence of the loan being repaid or serviced?

**MR LUFUNO NEMAGOVHANI:** At the time we were performing the work we were  
20 instructed to do, the loan was being serviced.

**CHAIRPERSON:** The loan had been?

**MR LUFUNO NEMAGOVHANI:** It was being serviced.

**CHAIRPERSON:** I see.

**MR LUFUNO NEMAGOVHANI:** Yes.

**ADV JANNIE LUBBE SC:** Yes, carry on.

**MR LUFUNO NEMAGOVHANI:** Can I ask that you clarify the question please?

**ADV JANNIE LUBBE SC:** You've mentioned in your evidence that there was one matter that the CEO did not respond to and you were then asked to deal with that.

**MR LUFUNO NEMAGOVHANI:** So we gave feedback to the board, we completed our work and then we went – there was a special board meeting I think that set on the 29 September 2017 and that's where we presented the report as per the scope that we were given and then we also reported that the CEO did not directly deal with the allegations with respect to he gave the instruction to – and director of an investing company and the board – you know, I was recused from the meeting after I presented  
10 the report. Then I came back, I was called back again and when I went back the board indicated to me that they accept the report that internal audit has done or has presented but they would like to request me to deal with this element where we are saying that the CEO did not directly address the issue of the instruction and they said I need to deal with this matter on the same day before the board adjourns so I need to go and interview the CEO and afterwards I meet also – interview Mr Lawrence Mulaudzi.

And I did what the board requested me to do, I spoke to the CEO who gave me his verbal responses and then I also called Mr Lawrence Mulaudzi and we had a conversation over the phone. So if I may, let me just address the outcome of the interviews.

20 **ADV JANNIE LUBBE SC:** You don't have to go into the detail of that, if you can just explain to the Commission what was the finding.

**MR LUFUNO NEMAGOVHANI:** So the final outcome obviously after the interview, I went back to the board, I presented the outcome and the outcome was that yes, the CEO has requested Mr Lawrence Mulaudzi to assist the two ladies with the funding after their company was experiencing financial problems and then he also indicated that

according to him he understood that was supposed to be a loan when he asked Mr Mulaudzi that should have been a loan so then I also asked how was he communicating with Mr Mulaudzi , he indicated to me that this was via Whatsapp and also with Ms – I mean, the ladies, he was also communicating with them via the phone, like sending, you know, messages and all that. So then I asked him, you know, to excuse himself because we're meeting in a boardroom and to give me the contact details of Mr Mulaudzi of which he provided and I called Mr Mulaudzi , I gave him the background, why am I calling him, I identified myself and then I asked Mr Mulaudzi how did he know these two ladies? He indicated that he was introduced to them by the CEO, he had never met  
10 them before, the CEO contacted him and then, you know, the deliberations went on but then he confirmed that he received a communication from the CEO, he received the sheriff correspondences which were given to the ladies so I think by now those ladies, they have sent them to the CEO. He confirmed that he received them via Whatsapp indicating that their business, they have been locked out because I think they were defaulting in terms of the rent.

So then he indicated that he assisted the two ladies with 300 000 which was paid in two separate payments of 150 000 each. Then I asked him whether according to him – firstly, I needed for him to confirm whether this was an instruction from the CEO, he said no, it was a request.

20 Then I went further on to ask him also whether would he have said no to the CEO with respect to this request and he indicated that he couldn't. So what he stated is that he couldn't because PIC has funded, you know, his transactions before.

Then I asked him whether this, according to him, was an instruction from the CEO, he said no, this was a request and then I asked him was this a loan or was it just assisting them? He said no, this is not a loan, he's not expecting any repayment from

them.

So this is the feedback that was given to the board on that day.

**ADV JANNIE LUBBE SC:** Ja. Can you perhaps elaborate, did Mr Mulaudzi said whether it was paid from his personal account or from a public – from a legal entity, did he tell you that?

**MR LUFUNO NEMAGOVHANI:** So I did ask him that question and his response was that this came from his personal account.

**ADV JANNIE LUBBE SC:** Thank you. Mr Chair – Mr Commissioner and members, this matter was fully dealt with in a Commission of Inquiry or a forensic investigation, a  
10 forensic investigation by my colleague Budlender SC. The report will be handed in as an exhibit to the Commission, not today but at a later stage. I plan to deal now with the second investigation dealing with the suspensions yesterday, I see it is nearly eleven o'clock for the tea adjournment, I plan to try and finish at 11:30 Minister Commissioner, may I with your leave continue that perhaps we can have after we finish at half past eleven the tea?

**CHAIRPERSON:** Certainly, if the witness has not finished his evidence by that time we will carry on.

**ADV JANNIE LUBBE SC:** Thank you.

**CHAIRPERSON:** Yes.

20 **ADV JANNIE LUBBE SC:** I now want you to deal with what happened this week at the PIC and the result and suspension of Mr Madavo and other officials, and I want to start by referring the Commission to the press release issued by the PIC yesterday where it is stated in paragraph 2 that:

“a preliminary investigation report was submitted to the Board on 21 January 2019. The preliminary report clearly reflects a blatant flouting of governance

and approval processes of the PIC. Employees of the PIC have also been implicated in these irregularities.”

Now to start your evidence on this aspect who – or let me say you performed this investigation, is that correct?

**MR LUFUNO NEMAGOVHANI:** That’s correct.

**ADV JANNIE LUBBE SC:** Who instructed you to perform this investigation?

**MR LUFUNO NEMAGOVHANI:** We – I was requested by the Acting CEO to provide or to perform you know further analyses or to gather additional information and perform further analyses on the finding that Internal Audit had raised and reported in May 2018

10 when we were conducting our normal audit in the listed investment space.

**ADV JANNIE LUBBE SC:** I just want – sorry to interrupt you – I just want to have the timelines very specific for the Commission, you filed an audit query in May 2018 where you raised specifically the Ayo Investment matter.

**MR LUFUNO NEMAGOVHANI:** Yes, so I must clarify that this was an audit that was being performed on the listed equity’s process so it was not like a specific audit on the Ayo matter. Ayo was one of the samples that was selected.

**ADV JANNIE LUBBE SC:** Exactly that was an audit performed in terms of your audit plan?

**MR LUFUNO NEMAGOVHANI:** That’s correct.

20 **ADV JANNIE LUBBE SC:** And it was one of the samples selected.

**MR LUFUNO NEMAGOVHANI:** That’s correct.

**ADV JANNIE LUBBE SC:** Right, and your finding in this Audit Committee, what was it about?

**MR LUFUNO NEMAGOVHANI:** So the finding in this audit query it was transaction not ratified. During the review of a sample of transactions Internal Audit noted that the Ayo

Technology transaction, IPO share subscription form, was signed off on 14 December 2017 and confirmed with the listing agent before approval of the transaction by PMC listed on 20 December 2017.

**ADV JANNIE LUBBE SC:** Can you just repeat that?

**MR LUFUNO NEMAGOVHANI:** During the review of a sample of transactions Internal Audit noted that the Ayo Technology Solutions IPO share subscription form was signed off on 14 December 2017 and confirmed with the listing agent before approval of the transaction by PMC listed on 20 December 2017.

**ADV JANNIE LUBBE SC:** Do I understand it correctly it means that it was signed off  
10 before the meeting on the 20<sup>th</sup> of December?

**MR LUFUNO NEMAGOVHANI:** It was signed off before the delegated committee could approve.

**ADV JANNIE LUBBE SC:** Is that in breach of the policies of the PIC?

**MR LUFUNO NEMAGOVHANI:** It is.

**ADV JANNIE LUBBE SC:** And that was the query raised in May?

**MR LUFUNO NEMAGOVHANI:** Yes.

**ADV JANNIE LUBBE SC:** And did you receive a written response by management to that query?

**MR LUFUNO NEMAGOVHANI:** Yes, I received management comment, and here they  
20 indicated that the people who will be responsible for this matter is the Chief Executive Officer, Executive Head Listed and the General Manager Listed Equities.

**ADV JANNIE LUBBE SC:** What happened to this query that you raised?

**MR LUFUNO NEMAGOVHANI:** This query so as part of the normal procedure when we raise issues during the issues we will discuss with the management of the relevant department and this matter was also discussed with the CEO and after the report was

signed off it was discussed, firstly I discussed it on the day of the Audit Committee, I had a meeting with the Chairman of the Audit Committee then.

**ADV JANNIE LUBBE SC:** Who was the Chairperson at the time?

**MR LUFUNO NEMAGOVHANI:** Miss Dantes Siphopo.

**ADV JANNIE LUBBE SC:** Yes.

**MR LUFUNO NEMAGOVHANI:** I discussed this matter with her, because according to us this was a very sensitive matter, so I needed to have a meeting with her, like normally we have brief meetings before we go into the normal Audit Committee – Audit and Risk Committee meeting so this was one of the matters that I discussed with her  
10 and I indicated to her that this matter did not submit through the normal process, which is to submit all the reports via the Company Secretary and it goes to all the members including invitees of the Audit and Risk Committee, so I would want to table this matter in the *in camera* meeting of the Audit and Risk Committee. I have printed copies which I will distribute in that meeting given the sensitivity around this matter and also that decision was informed by you know within PIC during that time. It was when we were having a problem you know of information that was leaking, so I was concerned that this issue also it might be linked because it was receiving you know an extend public media coverage as well, so I thought you know the prudent way of dealing with this matter it is the way that you know I dealt with it.

20 And then in the *in camera* meeting with the Audit Committee I tabled the matter and the resolution of the Audit Committee was that I need to take this matter to the Investment Committee of PIC, and of which I did and I tabled the matter in the next IC meeting, IC I'm referring to the Investment Committee, and this matter was deliberated in that meeting extensively.

**ADV JANNIE LUBBE SC:** I'm sorry to interrupt you again, just to again make it clear

the – and I refer to the ARC, that's the Audit Risk Committee, the ARC, consist of Board members?

**MR LUFUNO NEMAGOVHANI:** It consists of non-executive directors who are Board members.

**ADV JANNIE LUBBE SC:** Yes, and can you just tell the Commission the Investment Committee consist of?

**MR LUFUNO NEMAGOVHANI:** The Investment Committee it consists of majority is the non-executive directors but also the executive directors they sit in it there.

**ADV JANNIE LUBBE SC:** Is that the CEO and the CFO?

10 **MR LUFUNO NEMAGOVHANI:** Yes.

**ADV JANNIE LUBBE SC:** Right and that query was tabled at the IC and debated extensively?

**MR LUFUNO NEMAGOVHANI:** Yes.

**ADV JANNIE LUBBE SC:** What was the outcome, do you know?

**MR LUFUNO NEMAGOVHANI:** So we deliberated the matter in the meeting, the relevant management were present in that meeting, we deliberated on this matter, and then at the end we managed to proof that there was a process breach or there was a problem with the process, it was not followed, and that this was not disclosed in the meeting of 20 December to the Portfolio Management Committee where this  
20 transaction was tabled for approval, so at the end we were recused from the meeting.

**ADV JANNIE LUBBE SC:** Okay let's deal with two matters. Who were sitting as the Committee, who were the members on the 20<sup>th</sup> of December 2017?

**MR LUFUNO NEMAGOVHANI:** Mr Commissioner I will try my best but I think the minutes of that particular meeting can also you know confirm you know who were present in that meeting but the Chairman of the Investment Committee was there

...(intervention)

**CHAIRPERSON:** Can I just first find out why do you say you will try your best? Is it that you are ...(intervention)

**MR LUFUNO NEMAGOVHANI:** What I am trying to say is that I will try my best to remember you know who was there in that meeting, but I am saying that you know whatever I say obviously is subject to correction and that can be confirmed in the minutes, because there were minutes that were captured of that meeting.

The Chairman of the Investment Committee was present, and so the other members I don't know, through you Chair, if I need now to mention names or  
10 ...(intervention)

**ADV JANNIE LUBBE SC:** Chair can I just perhaps give some clarity. The investigation by the witness is a preliminary investigation, it's still ongoing and we don't want to jeopardise that investigation by going into too much detail today. I will just deal with the broad aspects of this investigation. It is also the subject of a forensic investigation by the forensic team of this Commission, which is at an advanced stage, so I have agreed with the witness that if he is uncomfortable disclosing names or issues that he will tell me that, and that's the basis for informing the Commission that that is why we are doing it.

**MR LUFUNO NEMAGOVHANI:** So through you Mr Commissioner I think all I can say  
20 about the people who were present in the meeting is that the meeting as far as I understand it was quorated, so – and the minutes can be made available to the Commission of that meeting.

**CHAIRPERSON:** And the minutes will confirm those names?

**ADV JANNIE LUBBE SC:** The minutes will yes have the names of people who were present in the meeting

**CHAIRPERSON:** If I understand you correctly you feel uncomfortable to mention the names at this hearing, at this open hearing.

**MR LUFUNO NEMAGOVHANI:** I'm not feeling uncomfortable *per se*, the discomfort is I don't want to mention you know that people were there maybe were not there, because I can't remember exactly who was there, right now.

**CHAIRPERSON:** I see, I understand.

**ADV JANNIE LUBBE SC:** Alright, now since May till December when you received this further instruction to have another look at this transaction, was anything done about this audit query?

10 **MR LUFUNO NEMAGOVHANI:** So maybe I just need to also present to the Commissioner that as far as I know the IC I think from the – I mean the media started you know raising questions around this transaction IC also started you know making enquiries with management in terms of the process that has been followed around this transaction, and management have been you know giving responses to the IC, and this was during you know up until the May – end of May, and we reported this issue during that time, but subsequent to that I mean this matter now and then will be discussed but not specifically the issue that Internal Audit has raised.

**ADV JANNIE LUBBE SC:** Perhaps I should put it another way, after your last engagement with the IC in May 2017 did anybody engage with you regarding this query  
20 before you received an instruction in December 2017 to again look at the matter?

**MR LUFUNO NEMAGOVHANI:** I don't remember those engagements.

**ADV JANNIE LUBBE SC:** Alright, just to get the timeline right we know that the PIC made a presentation to SCOPA in Parliament, I think it was on the 6<sup>th</sup> of December 2018, and SCOPA raised certain queries regarding *inter alia* this transaction. You received instruction to look at the matter again after this meeting in Parliament, is that

correct?

**MR LUFUNO NEMAGOVHANI:** That's correct.

**ADV JANNIE LUBBE SC:** Had you received it from the present Acting CEO?

**MR LUFUNO NEMAGOVHANI:** Yes.

**ADV JANNIE LUBBE SC:** Matshepho More?

**MR LUFUNO NEMAGOVHANI:** Yes. So if I may clarify Mr Commissioner so the instruction was that the Acting CEO has received a letter from the Chairman of the Board of PIC, raising concerns about the issues that were revealed at SCOPA in relation to the Ayo transaction and he wanted to understand what has been done  
10 around this issue, and were there any action that were taken against the people who were responsible for this matter, and then the CEO approached me, I think in that meeting I was with the Executive Head of Human Resource to say this is the instruction that I have received. Head of Internal Audit can you, you know I was looking at your finding but in the finding you are not giving us like the exact name like who contributed to this matter, the non-compliance, so what I want you to do is to gather more information to say who were the people responsible for breaching the PIC processes and you know based on that report I will be able to deal with this matter.

So we worked based on that basis, we engaged with the relevant people who were involved in the investment process, we held interviews with all of them,  
20 including the Assurance Divisions, by that I mean legal who performed the DD, Environmental and Social and Governance Division who performed the ESG DD, and also the Risk Division who performed the Risk DD, so we interviewed all these people and then I gathered all the information, now going deeper beyond the normal audit whereby you know we wanted to understand you know how were instructions given to the various people, you know, so – and that was the information that the CEO wanted

to know, so that we can assess you know where this breach, to what extent and who are responsible so that you know we can be able to satisfy the request of the Chairman.

**MS GILL MARCUS:** Sorry, just for clarity, because this is – I’m not quite sure I’ve followed everything, what you are now describing of what you’ve been asked to look at is exactly what you alerted them to in your May audit, but you are now going more deeply into that, it’s the same issue that you alerted in the May general audit that you were doing where it had come through the normal audit process that you were concerned about the timelines and that this was approved before the committee had met. So it’s the same issue, the difference is now it is end of the year and you’re  
10 looking at it in more detail as per instruction, but it was not a new issue because it had been brought through to Investment Committee and the Board at an earlier stage in the year, is that correct?

**MR LUFUNO NEMAGOVHANI:** This was not a new issue, it was just to now drill deeper into the root causes and the role players, you know what transpired here, where did the system start failing, because something failed in order for this issue to occur.

**MS GILL MARCUS:** But in reality your first report to the Audit Committee in May should have alerted and had that investigation as a follow through, because it brought the matter to the attention of the Audit Committee and the Investment Committee?

**MR LUFUNO NEMAGOVHANI:** The matter was brought to the Audit Committee, the  
20 matter was brought to the Investment Committee, so – and that’s where it ended.

**CHAIRPERSON:** And nothing actually happened until the instructions from the Chairman of the Board?

**MR LUFUNO NEMAGOVHANI:** Nothing happened yes, as far as I understand.

**ADV JANNIE LUBBE SC:** Alright, in summary you – can I just ask, you prepared a preliminary review report which is a private and confidential report of an ongoing

investigation, it's a 94 page report dealing in detail with processes, people involved, etcetera, is that correct?

**MR LUFUNO NEMAGOVHANI:** Yes.

**ADV JANNIE LUBBE SC:** I'm not going to ask you at this stage for the reasons explained to the Commission why I am not going to go into detail in this report, but in summary it seems to me your report concluded exactly what the press statement says that there was blatant flouting of governance and approval processes of the PIC in this transaction. Is that correct?

**MR LUFUNO NEMAGOVHANI:** The PIC processes that governs the listed investment  
10 processes were breached.

**ADV JANNIE LUBBE SC:** Well let me name a few examples. As I understood the evidence of the previous witnesses, like Mr Fidelis Madavo, Mr Roy Rajdhar and these people in the Listed space, when there's a transaction coming into the PIC it must be firstly introduced to the Portfolio Management Committee, is that correct, or not? I know for unlisted there's the Screening Committee before it goes to the Portfolio Committee but with listed it seems to me if I understood them correctly it goes to the Portfolio Committee first.

**MR LUFUNO NEMAGOVHANI:** That is the first committee where the transaction will be tabled so the Portfolio Management Committee has got two faces, the first face  
20 which is the committee where the transaction will first be introduced to the committee, and the committee will have to approve for the transaction team to go to perform a due diligence, and then after they have done or conducted all the due diligences there will be a second committee which will approve the committee, I mean the transaction. If according to the DOA this matter has to go maybe to a higher committee which is in this case will be a sub-committee of the Board, that committee will approve the transaction

goes to that higher committee, but in this case the Portfolio Management Committee this transaction was within their delegation of authority in this case, so it was the final approving committee, this PMC.

**MR EMMANUEL LEDIGA:** Question, and please tell me if you can answer the question or not, so I've got two questions so please let me know. Transactions follow a chain you know of events and all that and you say government processes were flouted, at which stages of the transactions were these done, is the first question maybe, I will come to the second one.

**MR LUFUNO NEMAGOVHANI:** So firstly the process of PMC1 didn't happen and the  
10 due diligence where it began before PMC1, but PMC1 never happened, which is the committee where the transaction will first be introduced and they approved that it goes through due diligence. Secondly the transaction or the irrevocable agreement was signed on the 14<sup>th</sup> without going to PMC1, without going to PMC2.

**ADV JANNIE LUBBE SC:** Sorry, when you refer to the 14<sup>th</sup> you're referring to 14 December 2017?

**MR LUFUNO NEMAGOVHANI:** 14 December 2017. Thirdly the memo or the payment  
20 document that is supposed to be approved by the CEO that was approved on the 19<sup>th</sup> of December 2017, before the meeting on the 20<sup>th</sup> of December, although payment was released according to that meeting, but the actual approval and the memo happened before.

**ADV JANNIE LUBBE SC:** To your personal knowledge when you started there till now has it ever happened before?

**MR LUFUNO NEMAGOVHANI:** This is the first time that I have seen I mean something like this within PIC.

**MR EMMANUEL LEDIGA:** My second question if this happens, I mean if the so-called

blatant, you know this blatant flouting of the laws of the processes what happens to the transaction? Is it fatal to the transaction and what happens to the people within the PIC who conducted it?

**MR LUFUNO NEMAGOVHANI:** So where there is this kind of firstly you know action needs to be taken against the people who are responsible in line with the PIC policies and the laws of the country. So by the laws I mean the labour laws and regulations because when you take action against employees you need to make sure that you do it within the laws of the country.

**MR MANUEL LEDIGA:** And the transaction, what happens to it?

10 **MR LUFUNO NEMAGOVHANI:** So I have never like as I indicated for the period that I've been with the PIC there has never been like a situation like this one so I think as far as I understand I mean it's a matter that the Board will have to work on.

**MR MANUEL LEDIGA:** Thank you.

**MS GILL MARCUS:** Would there have in the process of approval for such an investment would there have been a requirement to consult the client, I'm assuming the GEPF?

**MR LUFUNO NEMAGOVHANI:** So as it was indicated I think by the Acting Company Secretary that PIC has got a discretionary mandate, meaning that PIC can invest without consulting the client, so but in this case I don't have information I mean which  
20 indicates that the client was consulted before the investment was made, I don't have that information, but PIC all I'm trying to say is that they've got a discretionary mandate and they can make an investment without consulting a client.

**MR MANUEL LEDIGA:** Yes, and it's within the DOA also?

**MR LUFUNO NEMAGOVHANI:** Yes.

**MR MANUEL LEDIGA:** Of the PMC.

**MR LUFUNO NEMAGOVHANI:** Yes.

**MS GILL MARCUS:** It might be within the DOA but the question – the size of this transaction that we're talking about this particular element of it was how big?

**MR LUFUNO NEMAGOVHANI:** This transaction was for R4.3billion, it was the DOA of the PMC Listed Investment.

**ADV JANNIE LUBBE SC:** The investment, just for the record Mr Commissioner was it for a percentage of the shares or for 100% of the shares?

**MR LUFUNO NEMAGOVHANI:** So through you Mr Commissioner the private placement by IO, the final private placement which was issued on the 13<sup>th</sup> of December  
10 2017 it was for R4.3billion and PIC subscribed for 100% of that private placement of R4.3billion.

**MS GILL MARCUS:** Just on that if one had to look at the share price at the time and the share price now what would that be, has it been a good investment or where does it stand?

**MR LUFUNO NEMAGOVHANI:** Chair I think, I mean it's public knowledge that the share is not performing very well, whether it will pick up in the future you know I wouldn't know but as far as it stands currently it's not you know looking good for now, but I'm not sure about the future.

**MS GILL MARCUS:** Just in relation to what was paid at the time and now it's about  
20 half at this present time of what was paid initially, if I ...(intervention)

**ADV JANNIE LUBBE SC:** If I can assist Mr Commissioner, the PIC paid R43 per share and I think it was trading at R22 a share this morning.

**MR LUFUNO NEMAGOVHANI:** I think it's R3 a share now from what I saw, R3 I think last time I read, from I think R43 a share.

**MS GILL MARCUS:** (Inaudible – mic off)

**MR LUFUNO NEMAGOVHANI:** Ja, I think it was R43 to subscribe for the shares and the last reports I read I think two days ago so they said R3 a share, I hope I'm right, I don't know. I did not check those facts like recently, but all I know is that the share price has declined significantly, since the investment was made. Where it is sitting today, I do not know.

**MR EMMANUEL LEDIGA:** Question. The people who flouted these processes, did they give some reasons why they did this? Did you look into that?

**MR LUFUNO NEMAGOVHANI:** Mr Commissioner, through you, may I please for now respond to that question, given that this is still work in progress.

10 **COMMISSIONER:** Alright. We will give you that indulgence. I suppose Mr Lubbe, Advocate Lubbe would have told you that you might be called to come back. Am I correct?

**MR LUFUNO NEMAGOVHANI:** Yes.

**COMMISSIONER:** Is that so?

**MR LUFUNO NEMAGOVHANI:** Yes.

**COMMISSIONER:** Yes.

**ADV JANNIE LUBBE SC:** This is as far as I can take it today Mr Commissioner. Unless there is any further questions to this witness that would conclude the proceedings for the day.

20 **COMMISSIONER:** Alright, there is just one question.

**MR EMMANUEL LEDIGA:** Just a final general question about your department. In terms of performance appraisals, who does them? Are the done by the CEO and salary increases and bonuses? Who actually undertakes that? I am just looking at issues like security of tenure and those kind of issues.

**MR LUFUNO NEMAGOVHANI:** So the process – We will I mean develop our balance

for **carter sentinel** [00:02:21] audit in line with the audit plan and I will discuss that with the CEO, but I will submit it to Audit and Risk Committee for approval. Then also in terms of appraisals, I will follow the process so the Audit and Risk Committee is the Committee that has got the final say.

**MR EMMANUEL LEDIGA**: And salaries and bonuses, who determines them?

**MR LUFUNO NEMAGOVHANI**: So the salaries and bonuses will be based on the balance score card rating and that will follow the HR policies. So it is not like somebody, you know, will just determine an amount, so it has to follow the HR policies approved by the Board.

10 **MR EMMANUEL LEDIGA**: Okay. Thank you.

**ADV JANNIE LUBBE SC**: Mr Commissioner, there is just one last question that I have asked all the witnesses. You have been with the PIC since 2015.

**MR LUFUNO NEMAGOVHANI**: Yes.

**ADV JANNIE LUBBE SC**: From then to date, apart from this matter, are there any other matters of impropriety that you have discovered during your term?

**MR LUFUNO NEMAGOVHANI**: In relation to investments or generally?

**ADV JANNIE LUBBE SC**: General. Investments and general.

20 **MR LUFUNO NEMAGOVHANI**: Generally, we have dealt I think in 2016 with a matter where an employee you know, was or falsified some documents and we have also recently in respect of this Ayo Report, I mean this report which contained the Ayo finding, which we issued in May, so this report, I was called by a former employee, saying that they have got this report. It is an electronic version but they cannot access it because it was password protected and I asked them where did they get it from and they did not want to tell me where they got the information from but they sent the same report to the Executive Head of HR, which is a proof that they have the report, then the

Executive Head of HR sent me the report. I managed to like put it in the passwords and I see that it is our report. So that is another matter. Currently [Intervenues].

**COMMISSIONER**: Meaning there is a leakage.

**MR LUFUNO NEMAGOVHANI**: The report was leaked. I do not know how it was taken out from the system but the report was taken out but the employee could not access it because it was password protected, because as I explained earlier on, this matter we considered as very sensitive matter, so we protected it. And then currently we are dealing with VBS issues internally as PIC, we – There are investigators that are working on this to look at whether firstly the employees who are directors at VBS  
10 representing PIC. As far as it concerns, the transactions that PIC entered into with VBS, did they compromise. You know PIC processes or were they compromised and also to look at whether are there any other employees that may have been compromised in this whole VBS related issues internally. Compromising now the PIC as far as investment processes are concerned and also to look at the matter that relates to the R5 million back. So we have been working on this as internal audit as it was announced when this matters came out, I think then it was by the CEO to say that PIC will conduct investigations to look at these matters and the impact to PIC, so that we have appointed – So we approached as internal audit we were given powers by the Board to say we need to appoint a service provider and we – The service provider is  
20 doing the work currently, so that is one other matter that I think it may fall – Depending on the - I mean there are issues that have already have been confirmed by the report that have been issued by the investigators of VBS but also internally, we do not know what the investigation is going to come out with.

**ADV JANNIE LUBBE SC**: The documents you refer to that were falsified, is that investment documents or other type of documents?

**MR LUFUNO NEMAGOVHANI:** It is support functions document.

**ADV JANNIE LUBBE SC:** Dealing with investments?

**MR LUFUNO NEMAGOVHANI:** They were dealing with the numbers relating to investments. Like reporting numbers.

**ADV JANNIE LUBBE SC:** So the numbers were changed.

**MR LUFUNO NEMAGOVHANI:** Yeah, the numbers were changed.

**ADV JANNIE LUBBE SC:** Thank you Mr Commissioner.

**MR EMMANUEL LEDIGA:** I just wanted to go back to one issue which you mentioned. The PIC took 100 percent of the placement of IO shares.

10 **MR LUFUNO NEMAGOVHANI:** Yes.

**MR EMMANUEL LEDIGA:** Is there a policy within the PIC saying it can never take 100 percent, it can only take a certain percentage and other investors should put in some money there?

**MR LUFUNO NEMAGOVHANI:** So the policy currently, you will have the mandate, but the mandate does not specifically say for a specific investment, you know, you need to take so much of the private placement, but we engaged with a team and they indicated that in terms of IPOs except in cases where you have got like specs, you know, where you find that PIC is the lead investor in that, normally they can take 100 percent and then other investors will come in later on, but in this case you know, I am not sure if  
20 there are any other cases where this happened, but the listed team are saying, normally they will take I think between 30 and 50 percent. That is their information, but there is no policy that I can say you know, I can verify that against.

**MR EMMANUEL LEDIGA:** [Indistinct] within specs they can take up to 100 percent.

**MR LUFUNO NEMAGOVHANI:** *Ja*, with specs.

**MR EMMANUEL LEDIGA:** *Ja*.

**MR LUFUNO NEMAGOVHANI**: That is what they are saying. They are saying that normally given the strategy of PIC, so even this one in our engagement, they were justifying it around the strategy you know, in terms of driving the transformation.

**MR EMMANUEL LEDIGA**: Okay ja. This we need for our recommendations so it is why I am asking you that question. Thank you.

**MR LUFUNO NEMAGOVHANI**: Thank you.

**ADV JANNIE LUBBE SC**: Thank you Mr Commissioner.

**COMMISSIONER**: Mr Lubbe am I correct that this is the last day for this week.

**ADV JANNIE LUBBE SC**: Yes.

10 **COMMISSIONER**: And we will continue from the 28<sup>th</sup> until Wednesday next week. 28<sup>th</sup> 29<sup>th</sup> 30.

**ADV JANNIE LUBBE SC**: That is correct.

**COMMISSIONER**: I am correct. Right the hearing will then be adjourned until 10:00 on Monday 28 January 2019.

**ADV JANNIE LUBBE SC**: Thank you Mr Commissioner.

**REGISTRAR**: All rise.

**HEARING POSTPONED TO 28 JANUARY 2019**