

COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT CORPORATION

HELD AT

TSHWANE, PRETORIA

10

28 JANUARY 2019

DAY 4

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PROCEEDINGS HELD ON 28 JANUARY 2019

CHAIRPERSON: Good morning everybody. Just a reminder I think it was last week sometime I heard a cell phone going off. Just a reminder that please put them on silent, if not switched off, thank you. Yes Mr Lubbe?

ADV JANNIE LUBBE SC: Good morning Commissioner and members. We are ready to proceed. The next witness is Mr Frans Lekubo he is present and ready to testify and he would prefer to do the affirmation and not the oath.

CHAIRPERSON: Yes Sir your full names please?

MR FRANS LEKUBO: Frans Lekubo.

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

MR FRANS LEKUBO: Yes I'd like to do an affirmation.

CHAIRPERSON: You would?

MR FRANS LEKUBO: I'd prefer to do an affirmation.

CHAIRPERSON: Alright do you affirm that the evidence that you will give will be the truth, the whole truth but nothing but the truth, please confirm.

MR FRANS LEKUBO: Yes.

CHAIRPERSON: Thank you.

ADV JANNIE LUBBE SC: Thank you Commissioner can I, as last week, be seated while proceeding? Thank you. Mr Lekubo ...

20 **MR FRANS LEKUBO:** Yes?

ADV JANNIE LUBBE SC: Can you tell the Commission about yourself, where you're from, where you studied?

MR FRANS LEKUBO: Yes my name is Frans Lekubo, the director of Naledi Advisory Services the company which I founded in 2016. Prior to that I was with PWC in the Forensic Services Division for, since 2001, up until 2016 so I spent 16 years with PWC

as a forensic auditor. I resigned from PWC in 2016 ... (intervention)

CHAIRPERSON: I know that there's going to be a record of your evidence but please slow down a bit.

ADV JANNIE LUBBE SC: Slow down a bit.

MR FRANS LEKUBO: Okay, alright I tend to speak fast so just, ja remind me alright if I tend to speak so fast. Ja so I spent 16 years there in the forensic services team, I became a director I resigned from PWC to be as a director there to form Naledi Advisory Services of which I'm a director. I'd studied, I've got a Bachelors Degree ... (intervention)

10 **ADV JANNIE LUBBE SC:** Just quiet, cool.

MR FRANS LEKUBO: Alright I've got a Bachelors Degree from the University of Pretoria and in my time with PWC ... (intervention)

CHAIRPERSON: What did you study at the University of Pretoria?

MR FRANS LEKUBO: I studied okay I've got a Commerce Degree from University ... (intervention)

CHAIRPERSON: Say that again?

MR FRANS LEKUBO: I've got a Commerce Degree.

CHAIRPERSON: Commerce Degree. Yes?

MR FRANS LEKUBO: And I would have spent, I spent time as I said in the Forensic
20 Services Division at PWC. I received training in becoming a forensic auditor within, while I was still at PWC. Performed various forensic audits and investigations.

CHAIRPERSON: Are you saying you are still with PWC?

MR FRANS LEKUBO: No, no, no I left them in 2016.

CHAIRPERSON: 2016.

MR FRANS LEKUBO: To form Naledi Advisory Services. I'm a director of Naledi

Advisory Services we're specialists, we are a specialist forensic services firm. We conduct forensic audits and investigations for clients both in the public and private sector.

ADV JANNIE LUBBE SC: Okay can I interrupt you, I think to put the brakes on your speed I will ask you questions and then you answer that.

MR FRANS LEKUBO: Alright.

ADV JANNIE LUBBE SC: Have you been involved in the Learning and Education Department of PWC?

MR FRANS LEKUBO: Yes I was involved with e-learning a division of PWC, I've
10 performed training I've provided training internally to our internal staff members both in the country and overseas.

ADV JANNIE LUBBE SC: That's what I wanted to ask you, alright. Now in your capacity as a forensic auditor are you registered with any of the professional bodies in South Africa?

MR FRANS LEKUBO: Yes, the Association of Certified Fraud Examiners.

ADV JANNIE LUBBE SC: Is that an international organisation?

MR FRANS LEKUBO: Yes it is.

ADV JANNIE LUBBE SC: For professional forensic investigators?

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Now as a forensic investigator did you testify in disciplinary
20 matters?

MR FRANS LEKUBO: Yes I've testified in various disciplinary matters, civil matters and criminal matters.

ADV JANNIE LUBBE SC: As an expert witness?

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Okay alright now can we know proceed with the investigations you performed at the Public Investment Corporation.

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: And again try and slow down, listen carefully what I'm asking you and answer just the question. You were mandated by the PIC I believe in September 2017?

MR FRANS LEKUBO: Correct.

ADV JANNIE LUBBE SC: To look at?

MR FRANS LEKUBO: To conduct an investigation into the leaking of the confidential
10 information and malicious reporting against, various allegations against the CEO and the CFO.

ADV JANNIE LUBBE SC: Now it's public knowledge that the author of this e-mail appeared to be a certain James Nogu is that correct?

MR FRANS LEKUBO: Yes that's correct.

ADV JANNIE LUBBE SC: And part of your mandate was to try and identify who this person was?

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Who gave you the instruction?

MR FRANS LEKUBO: The CEO of the PIC at the time.

20 **ADV JANNIE LUBBE SC:** Is that Dr Dan Matjila?

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Now I believe Mr Lekubo that in the process of this investigation you discovered something else?

MR FRANS LEKUBO: Yes, while we conducting the investigation to try and establish how the confidential PIC information was leaked and who could be responsible for

leaking it we came across information that there was a criminal case which was registered by a staff member against the CEO of the PIC and that investigation was ongoing and he was not aware nor the PIC aware.

ADV JANNIE LUBBE SC: Of this criminal matter and charge against the then CEO Dr Matjila?

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Now if you can just have a look at your report, that is the report titled 'Investigation into circumstances relating to the opening of a corruption case against the chief executive officer of the Public Investment Corporation by a certain staff member' do you have that front of you?

MR FRANS LEKUBO: Ja.

ADV JANNIE LUBBE SC: Can you turn to page 6?

MR FRANS LEKUBO: Ja I'm there.

ADV JANNIE LUBBE SC: Now can you just read into the record what is stated on page 6 paragraph 1 background and mandate?

MR FRANS LEKUBO: Okay so paragraph 1.1 we say:

"1.1 Based on my meeting held with the PIC held on 18 September 2017 we understand that the PIC experienced the following:

- a) Leaking of confidential information to external parties;
- b) Circulation of malicious reports against its CEO and CFO to staff members and the board of directors via an unknown work based e-mail account.

1.2 We were appointed by the PIC to conduct an investigation into the leaking of confidential information and the circulation of malicious reports against the CEO and the CFO and the objective of the investigation was:

- a) To identify parties responsible for the leaking of confidential information and circulation of malicious reports against the CEO and the CFO.
- b) To establish how the confidential information was obtained and leaked and;
- c) To report my findings and make recommendations.

1.3 During our investigation we established that the senior manager of IT Security at PIC had opened a corruption case against the CEO of the PIC with the South African Police Service. PIC therefore extended our scope to include conducting an investigation into the circumstances relating to the opening of the corruption case against the CEO of the PIC.”

ADV JANNIE LUBBE SC: If I can just interrupt you there again, when you discovered this did you then report it to the CEO?

MR FRANS LEKUBO: I reported to the CEO and the board.

ADV JANNIE LUBBE SC: And as a result of that report the scope of the investigation was extended to include this?

MR FRANS LEKUBO: Yes, the board extended the scope of our investigation to include investigation into the circumstances relating to the corruption case against the CEO.

20 **ADV JANNIE LUBBE SC:** Can you deal with paragraph 1.5 then?

MR FRANS LEKUBO: Yes, that deals with the extension of our scope:

1.5 “The objectives then of the investigation:

- a) The extension was to establish whether the staff members had a mandate from the PIC to open a case of corruption against the CEO with SAPS; to establish a timeline of events relating to the corruption

case against the CEO;

- b) What led to the opening of the corruption case against the CEO;
- c) Whether the staff members involved in the opening of the corruption case against the CEO acted in their personal capacity on behalf of the PIC;
- d) Whether the staff members communicated details of the corruption case against the CEO of the PIC and if not, reasons why and the status of the corruption case at that time.”

10 **ADV JANNIE LUBBE SC:** Okay can you briefly deal just on page 7 with the scope and nature of the investigation?

MR FRANS LEKUBO: Yes this is typically our disclaimers I'll go through it 2.1 we say:

20 “The scope of our investigation was limited to the information obtained from the PIC, other external parties and interviews with employees of PIC and other external parties deemed relevant for our investigation. The nature of our assignment included the inspection of electronic and hardcopy records and other sub related supporting documentation deemed necessary to comply with the mandate and we relied on records provided by PIC and other external parties deemed relevant for our investigation. The findings contained in this report based on the work performed to date of this report which is 5 December 2017. Naledi has attempted to include all information relevant to our mandate however it is possible that documents and information exists which were not made available to us or that Naledi is unable to locate. Any documents or information brought to our attention after the date of the report which could affect our findings may require our findings to be adjusted and qualified accordingly. This report is neither designed nor

intended to provide legal advice or legal opinion should not and cannot be so construed.”

ADV JANNIE LUBBE SC: Okay now can you turn to paragraph 4.2 of your report and that is a timeline?

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Can you just briefly explain that to the Commissioner?

MR FRANS LEKUBO: Yes so we set out just a timeline of the events relating to the corruption case against the CEO of the PIC at the time just to make it easier for the reader of the report. So I'll start on the 1st September 2017 and unknown individual using the alias James Nogu sent an e-mail to the PIC Exco, the executive committee members and the board of directors making various allegations against the CEO and the CFO. And then again in September 2017 the date is unknown the IT, Mr Mayisela who was the head of IT Security had opened an inquiry with SAPS with inquiry number 06/09/2017 and again in September date unknown the head of IT which was a position held by Ms Vuyokazi Menye at the time and the head of internal audit Lufuno Nemagovhani had tried to open a case with SAPS but they failed as SAPS, apparently this is based on their version, that SAPS believed there was no basis for the case. Here they were trying to open a case with SAPS to try and uncover who James Nogu was they wanted SAPS assistance for purpose of a subpoena.

20 **ADV JANNIE LUBBE SC:** Just to assist the Commission, is that a reference to section 205 of the Criminal Procedure Act?

MR FRANS LEKUBO: Yes, correct. And then on the 2nd October Mr Mayisela who was the head of IT Security we found that he had opened a corruption case against the CEO of the PIC Dr Matjila without any authority from the PIC. On his own version he mentioned that he made an error in opening the corruption case, the criminal case

against the CEO of the PIC and we interviewed Mr Mayisela again on the 6th October 2016(sic). No on 6 October 2016(sic) Mr Mayisela ... (intervention)

ADV JANNIE LUBBE SC: 17, 2017.

MR FRANS LEKUBO: 2017 Mr Mayisela informed Ms Menye who was the head of IT at the time about the case that he registered with SAPS. He however mentioned, didn't mention in notifying her about the case that was registered with SAPS he failed to mention that the case, the corruption case, the case was a corruption case against the CEO of the PIC. And on the same day Ms Menye who was the head of IT Security forwarded the e-mail, an e-mail about the case to Dr Matjila including the case number
10 to the CEO of the PIC but then again there was no mention that it was a corruption case against the CEO of the PIC.

On 13 October 2017 Ms Menye and Mr Mayisela, that's the head of IT and head of IT Security met with SAPS officers in Parktown. It should be noted that this case was registered on 2 October in 2017 in Brooklyn Pretoria but on 13 October Ms Menye and Mr Mayisela met with SAPS officers in Parktown. During the meeting Mr Mayisela made a supplementary affidavit, a second statement to the case.

ADV JANNIE LUBBE SC: Just for people not known to this area Brooklyn is in Pretoria?

MR FRANS LEKUBO: Ja Brooklyn is in Pretoria.

20 **ADV JANNIE LUBBE SC:** And Parktown is in Johannesburg?

MR FRANS LEKUBO: Is in Johannesburg.

ADV JANNIE LUBBE SC: Thank you.

MR FRANS LEKUBO: Okay and he made a second statement with the police outlining that he did not intend for a corruption case to be opened against Dr Matjila that he meant for the corruption, a case to be opened for purposes of investigating SAPS

assisting them to find out which (inaudible) he was. Ms Menye requested the second statement from Mr Mayisela on the 16th October 2017 which he forwarded to her. Then she forwarded that statement, that second statement which states that we opened a case of corruption wrongfully we wanted the case to be, you know to assist us in finding out which (inaudible) he was. She forwarded that statement to Dr Matjila on 18 October 2017.

During October again and the date unknown SAPS had notified Mr Mayisela about a meeting with the Minister of Police. They called him, he couldn't recall the date. They called him, they said we're going to meet with the Minister of Police to brief
10 him about the case against the CEO of the PIC because he's a high profile individual and then also to find out if the Ministry have not initiated another investigation so there's no duplication of efforts. And then he did not communicate that information to the PIC and on 3 November 2017 SAPS officers obtained the electronic version of the James Nogu e-mails from Mr Mayisela, the PIC, they in fact visited the PIC offices to obtain those electronic version of those e-mails and he provided to them on a compact disc, on a CD.

And on 7 November 2017 we interviewed Mr Mayisela and Ms Menye. They both confirmed when we interviewed them that they did not notify Dr Matjila or the PIC about the corruption case.

20 **CHAIRPERSON:** Mr Lekubo when you speak stay as close to the mic as possible.

MR FRANS LEKUBO: Okay.

CHAIRPERSON: And rather than lifting your head and looking at counsel look at us.

MR FRANS LEKUBO: Alright.

CHAIRPERSON: Then you'll stay close to the mic.

MR FRANS LEKUBO: Okay thanks, thanks for that. Alright and then ja see we

interviewed them on 7 November 2017 they both confirmed that they did not notify Dr Matjila and/or the PIC about the corruption case. That's the end of the timeline.

ADV JANNIE LUBBE SC: Thank you. Now I don't think it is necessary to read ... (intervention)

CHAIRPERSON: Here's a question, here's a question.

MS GILL MARCUS: Oh here it's on now, okay thank you. Sorry did they give any reason why they had not informed the CEO that he was implicated in those investigations?

MR FRANS LEKUBO: Yes I questioned Mr Mayisela as to why he had notified Dr
10 Mayisela(sic) his response was that he told his boss who was the head of IT Security, Ms Menye, he'd requested him to notify Dr Matjila that was his version, he said he told him to notify Dr Matjila and then he didn't do so himself. Then I asked Ms Menye to say did you then notify Dr Matjila or the PIC, anybody within the PIC she said she was yet to do so and that was on the 7th November when we interviewed her and this is something that had occurred on 2nd October 2017. So the – she said she was yet to do so that was her answer.

ADV JANNIE LUBBE SC: To try and save time Mr Lekubo as I understand your report you, part of your mandate was to establish who is James Nogu?

MR FRANS LEKUBO: Yes.

20 **ADV JANNIE LUBBE SC:** To date you haven't established that?

MR FRANS LEKUBO: No we have not established that to date.

ADV JANNIE LUBBE SC: Right the content of the e-mails regarding the then CEO Dr Matjila and the CFO what was it about?

MR FRANS LEKUBO: It was not really the focus of our investigation, it was, it contained allegations involving the CEO of the PIC you know one of the allegations I

recall top of my head without having the e-mail before me is that he was alleged to have funded, facilitated funding or – for a woman that he was linked with, he had relations with.

ADV JANNIE LUBBE SC: Alright Mr Commissioner I'm just placing it on record, the allegations contained in the e-mail of Nogu was investigated by my colleague Budlender SC. He conducted a forensic investigation and he filed a written report. That report is available. It is a report requested by National Treasury but I'm in conversation with National Treasury and I would hand up later, if not today tomorrow, the content of that report. That report found that there was no substance in the alleged
10 relationship between the then CEO and Ms Pretty Louw and also found that it was factually incorrect that Dr Matjila funded an entity, a legal entity of this lady. But that, so I'm not going to dwell on that part of the investigation because there was a forensic investigation mandated by National Treasury and reported on and I will hand that report later up to the Commission.

CHAIRPERSON: I may just mention Mr Lubbe that we, a copy of that report, the Budlender Report, I call it the Budlender Report, was made available to us but it's fine for you to hand it up formally.

ADV JANNIE LUBBE SC: Yes, I think it would just be correct Mr Commissioner to hand that up formally as an exhibit to the Commission. Alright what is important further,
20 and we'll come back to that, you also investigated the leaked information and to do that you had to image computers is that correct?

MR FRANS LEKUBO: Yes we imaged computers of several staff members.

ADV JANNIE LUBBE SC: I think you must just speak up again and just to explain the technicality of this what exactly is meant by imaging a computer?

MR FRANS LEKUBO: We create a mirror image of a computer using specialised

software. So we'll take a computer as is and we will image the hard drive so all the data that's on that computer we'll create a mirror image of it. That would include deleted data, every artefact that results on that computer and then we will then preserve, this is to avoid tampering, we will then create what we call a master copy which remains sealed should there be any disputes regarding what was found on the specific computer and that is kept safe. And then we create a working copy, what we call a working copy then we will start reviewing, interrogating that copy to use. We perform what we call keyword searches. If I'm looking for a document, any document that contains Jannie Lubbe then I'll type Jannie Lubbe and then it will, any document
10 that contains the name will come through, will pop up so we review, we look for specific evidence, specific information on that working copy. And that's a legally acceptable process that we follow in the courts you know, it's accepted.

ADV JANNIE LUBBE SC: Ja it is a well-known tool, reliable and accepted in the legal process.

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Okay now while you were busy with these emerging investigation you discovered this criminal charge against Dr Matjila which we have now dealt with. But to just finalise your report before we go to the imaging, if you will turn to page 22 of your report that is the one titled 'Investigation into circumstances relating to
20 the opening of a corruption case' if you can just turn to page 22.

MR FRANS LEKUBO: Sorry just for clarity we discovered the corruption case not through the imaging, we were performing what we call Mimecast reviews. Mimecast it's a, it's also a tool most organisations use, every e-mail that you send, staff member send or receive goes through Mimecast's exchange server so there's a copy of it even if you delete that e-mail on your computer Mimecast will have a copy of that.

ADV JANNIE LUBBE SC: Thank you I forgot about that.

MR FRANS LEKUBO: Ja.

ADV JANNIE LUBBE SC: I think it's a technical thing and you must explain that fully to the Commission, what is that exactly?

MR FRANS LEKUBO: Okay and ja so that's how we discovered the matters relating to the criminal case. We imaged the computer subsequent to that.

ADV JANNIE LUBBE SC: Explain the server thing.

MR FRANS LEKUBO: Okay so ja, so PIC like many organisations would use Mimecast Solution it's a company based in Johannesburg in Sandton they offer a solution where every e-mail that gets send by an employee of the PIC it will go through the Mimecast server, their server then the Mimecast server and every e-mail that gets received before it's received by the PIC server it would have to go through the Mimecast server and that is it provides you with e-mail backups, that's the advantage of it, but also it just provides you with records of all the e-mails sent or received by staff who are on the PIC mailing list in the sense that even if you delete the e-mail on your inbox on your computer, Mimecast will still keep a copy of that. So you can wipe your entire mailbox but we can go to Mimecast and get a copy of your mailbox and we'll have all the e-mails that you've ever sent or received.

ADV JANNIE LUBBE SC: So it was in the course of that Mimecast exercise that you stumbled across the e-mails pertaining to the criminal investigation?

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Now if we can turn to page 22.

MR FRANS LEKUBO: 22.

ADV JANNIE LUBBE SC: And it seems to me in 5.2, 5.1 a) there is an error regarding the date, I suppose you're referring to September 2017 and not 13?

MR FRANS LEKUBO: Ja that's correct.

ADV JANNIE LUBBE SC: Can you just for the record then briefly deal with the conclusions?

MR FRANS LEKUBO: Yes so we concluded based on our investigations the following:

a) That during September 2017 Mr Nemagovhani who's the head of Internal Audit and Ms Menye who's the head of IT went to a Brooklyn Police Station in Pretoria to register a case with South African Police to assist with identifying James Nogu. On their own version they were however unsuccessful in registering a criminal case as they went to SAPS they informed us they went to SAPS with the e-mails from James Nogu and the
10 attachment which was linked in the James Nogu e-mails for an MSD transaction. They presented that to SAPS to say this is, we'd like to open a case because based on the following information.

SAPS said they did not see any criminality in there and they refused to register a criminal case. They then went back, SAPS believed there were no grounds for opening a criminal case. The two employees then went back to the PIC and reported the same. They provided feedback to the CEO, Dr Matjila then, about the failure to open the case. The specific date they went in September is unknown as they both could not recall the specific date.

During September 2017 Mr Mayisela registered an inquiry with Cyber Crime
20 Unit of SAPS within inquiry number CC06/09/2017. He however did not bring this to PIC's attention. It was not clear from my investigation who provided Mr Mayisela with the mandate to open that criminal inquiry however, it was opened. On 2 October 2017 Mr Mayisela then approached the Brooklyn Police Station and registered a case of corruption against the CEO of the PIC Dr Matjila. Although I've seen the statement that he made on the 2nd October, although he was not specifically, he did not specifically

mention Dr Matjila as a suspect he provided SAPS with the James Nogu e-mails which contained corruption allegations against Dr Matjila and also the attachment that came with that e-mail and he attached that to his statement and say these are the supporting documentation and it says case of corruption. So you know any logical conclusion there would be drawn that you're opening a case Dr – the CEO of the PIC because the allegations were against him and the case was opened as a corruption case.

And based on the content of the e-mails from James Nogu, Dr Matjila became a suspect in a corruption case registered by Mr Mayisela. Mr Mayisela appears to have made the decision to register a corruption case against Dr Matjila on
10 his own without any mandate from the PIC. When we interviewed him he informed us that he did not act as a whistleblower on the matter, he never said that he was a whistleblower. And on 6 October 2017 Mr Mayisela sent an e-mail to Ms Menye providing her with an update on the James Nogu e-mails. In the said e-mail he informed Ms Menye that a case was registered with SAPS at the Brooklyn Police Station. However, Mr Mayisela failed to mention that he registered a case as a corruption case which implicated Dr Matjila.

ADV JANNIE LUBBE SC: Alright if I can interrupt you there, as I understand it Mr Mayisela himself stated that he was not acting in capacity as a whistleblower?

MR FRANS LEKUBO: Yes.

20 **ADV JANNIE LUBBE SC:** But without that statement by Mr Mayisela objectively and from a forensic perspective, by going to the SAPS with this e-mail of James Nogu with the instruction by his employer to get a 205 from the SAPS could he be considered a whistleblower?

MR FRANS LEKUBO: No unless he was James Nogu.

ADV JANNIE LUBBE SC: Alright. Now going to James Nogu what he did, as I

understand from your report is to send, James Nogu send an e-mail to the Board, all the board members of the PIC and staff regarding these allegations against the then CEO and the CFO. To be able to do that can an outsider of the PIC do it or must it be an insider?

MR FRANS LEKUBO: To send the e-mails to the board and stuff like that?

ADV JANNIE LUBBE SC: Ja to have all those e-mails ... (intervention)

MR FRANS LEKUBO: E-mail addresses.

ADV JANNIE LUBBE SC: Readily available.

MR FRANS LEKUBO: Ja well he ought to have collaborated with somebody within,
10 within the PIC but an outsider could do it. Typically most organisations would not, they've got what you call the mailing lists where you say exco, all member staff all and those mailing lists are not, cannot receive e-mails from outsiders, they're normally for internal use. So an outsider should be able to just an e-mail specifically to a person they want to communicate with. But however, the PIC at the time the IT, the mailing list setup was such that those external, internal mailing groups could receive e-mails from external people. But be that as it may the internal mailing groups an outsider would not, it's not something you'd be able guess, you'd need an internal person to have provided that information.

ADV JANNIE LUBBE SC: Alright you can skip the rest of those, can you go to page
20 23 paragraph Q?

MR FRANS LEKUBO: Yes so on 3 November the SAPS investigation officers met with Mr Mayisela at the PIC offices to obtain the electronic versions of the James Nogu emails. Again Mr Mayisela failed to communicate this to the PIC. We were informed by Colonel Nama of the SAPS that the purpose of obtaining electronic versions of the emails was to trace James Nogu. So he or she could provide SAPS with information to

support allegations raised against Dr Matjila. According to Colonel Nama they consider James Nogu to be a whistleblower who could assist them with the investigations.

ADV JANNIE LUBBE SC: And you have just expressed your view that you do not agree with that conclusion by Colonel Nama. That Nogu is not a whistle blower or a typical whistle blower.

MR FRANS LEKUBO: *Ja*, in my view, he was not a whistle blower.

ADV JANNIE LUBBE SC: Thank you. Do you know at this stage, today, what is the status of this criminal matter against Dr Matjila?

MR FRANS LEKUBO: I do not know. The last I spoke to SAPS, when I was involved
10 with the matter, they were pursuing the criminal investigations. I met with SAPS at their offices in Johannesburg. They made it very clear that they are not going to ignore the allegations. They are pursuing the criminal investigation against Dr Matjila.

ADV JANNIE LUBBE SC: How easy is it to establish the identity of James Nogu?

MR FRANS LEKUBO: It is quite easy.

ADV JANNIE LUBBE SC: How do you do it?

MR FRANS LEKUBO: With the Section – James Nogu sent the emails using a
webmail account. Webmail is a South African company. If we get a SAPS subpoena,
we can subpoena Webmail to provide us with the information of the owner of that email
account that jamesnogu@webmail.co.za, he can register an email using an alias. I can
20 call myself anything on line, but with his web based email account, they will need what
you call either recovery email account or phone number, so you will either have to
provide them with your cell phone number or a recovery email and we could – They
could provide us with that information. We would also be able to see the server. The
IP address of the, you know, the – Where the email came through from. If it is a ISP, an
internet service provider would be able to then issue a further subpoena to them to

understand who logged in from you know, what computer and the – Who the service, you know, understand the service provider behind – To be able to unmask the user. So it is pretty easy with a 205 subpoena. It is not a complex process.

ADV JANNIE LUBBE SC: Can you then lastly explain what you stated in 5.4 and 5.5 of your report on page 24?

MR FRANS LEKUBO: 5.4 and 5.5. We say 5.4 Mr Mayisela, we found that Mr Mayisela misled the PIC by stating that a subpoena not be possible on the matter as the internet service provider was a French entity. He further stated for any information to be secured, the National Prosecuting Authority would need to establish a mutual
10 legal treaty – Legal assistance treaty with the French Authorities. According to Mr Mayisela this was also not possible as there had to be a suspicion of an offence. He stated that there was no evidence that James Nogu had committed any offence or a crime. According to Mr Mayisela, he was given the above advice by the Cyber Crime Unit of the South African Police Service and 5.5, based on his advice, Mr Mayisela appears to have discouraged PIC from pursuing efforts to uncover who James Nogu was via a subpoena process. It is not clear to us whether Mr Mayisela was being deliberately deceitful or just misinformed.

ADV JANNIE LUBBE SC: Okay. Now, based on your investigation, if you can conclude this, Mr Mayisela was – There was a disciplinary hearing.

20 **MR FRANS LEKUBO:** Yes.

ADV JANNIE LUBBE SC: You testified at that hearing.

MR FRANS LEKUBO: I testified at that hearing yes.

ADV JANNIE LUBBE SC: The Chairperson of that hearing was Cassim SC from the Johannesburg Bar.

MR FRANS LEKUBO: Yes. Correct.

ADV JANNIE LUBBE SC: And what was the result of that disciplinary hearing?

MR FRANS LEKUBO: He was found guilty and dismissed.

ADV JANNIE LUBBE SC: Okay. Now if we can just deal lastly with your imaging of Mr Mayisela's computer. It is not in dispute that Mr Mayisela was appointed at the PIC on 1 September 2017.

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: Now, what did you find on his computer, after you have imaged it?

MR FRANS LEKUBO: We found amongst [Intervenues].

10 **ADV JANNIE LUBBE SC:** If you can – Sorry to assist the Commission. Mr Commissioner, it is the other report titled Progress Update Review of computer images on certain staff members and if I can refer you to page 5 of that report. Paragraph 10.

MR FRANS LEKUBO: Okay. *Ja*, so, we found that Mr Mayisela was involved in the interception of email correspondence intended for Dr Matjila. In this regard we found that he had extracted certain information, documents intended for Dr Matjila or parts thereof and saved them on his computer and we found that he is also involved in the possible falsification of his academic qualifications. He also accessed adult websites or content using his PIC computer.

20 **ADV JANNIE LUBBE SC:** Is it possible to tell the Commission for instance the interception of email and extracting of confidential information. On what date did this happen?

MR FRANS LEKUBO: Yes, on the – The very clear one was a Letter of Engagement between Naledi and the PIC which was signed by Dr Matjila on 13 October 2017. That Letter of Engagement I sent it to Dr Matjila's and he signed it. It was scanned and sent back to me. We found that document in Mr Mayisela's computer when we reviewed his

computer image. He had deleted it. We had found it in his recycle bin. He had saved it on his computer and deleted it, but we could see where it was stored on his computer and even the day he deleted it. So he had no reason to have that document because that document was – We marked as strictly ‘private and confidential’ and it was restricted to the CEO and myself. I did not even use my PA to send that document. I personally sent it. So, we found that document on his computer, he had been intercepting, as head of IT Security was intercepting the CEO’s emails. We found other information which had to do with investment as an LMA risk document which involved a transaction involving Deutsche Bank [Intervenues].

10 **ADV JANNIE LUBBE SC**: But before that. [Intervenues].

MR FRANS LEKUBO: *Ja.*

ADV JANNIE LUBBE SC: What date? Can you put a date? When did – He was now appointed on 1 September 2017.

MR FRANS LEKUBO: Yeah.

ADV JANNIE LUBBE SC: When did he start accessing this information?

MR FRANS LEKUBO: The 13 October that is the first evidence we have, that he had extracted information from the CEO.

ADV JANNIE LUBBE SC: Now, to be able to do that, must somebody grant him permission?

20 **MR FRANS LEKUBO**: We do not know the manner in which he did it. When we asked him about it, he had reserved his rights. He refused to cooperate.

ADV JANNIE LUBBE SC: But in normal, in normal corporate business circumstances, if an IT person access the emails of the Chief Executive Officer or he Chairperson of the Board of that Institution, surely he cannot do just it on his own free will, he must have permission from somebody to do it.

MR FRANS LEKUBO: *Ja*, IT ultimately rested with the Head of IT which was Ms Vuyokazi Menye, but it should be noted that also that Mr Mayisela was the Head of IT Security and due to his role, he had quite – He had access to a number of systems within the PIC, so [Intervenues].

ADV JANNIE LUBBE SC: Did that include accessing the computer of the CEO?

MR FRANS LEKUBO: No, that was not part of his duties and it is not something that was permitted with the PIC. No.

ADV JANNIE LUBBE SC: I believe there is a term in your world to say that if you have that permission, you have the king's keys.

10 **MR FRANS LEKUBO**: Never heard of that.

ADV JANNIE LUBBE SC: You have never heard of that. I thought you had heard of that, but do I understand you correctly that four Mr Mayisela to access Dr Matjila's computer, somebody must have given him permission to do that.

MR FRANS LEKUBO: Yes. He did not have the permission to do so. Not by the CEO himself or any Member of the Board within the PIC because I had enquired with the PIC and he did not have the permission to extract that information.

ADV JANNIE LUBBE SC: Who could have given him that information or permission?

20 **MR FRANS LEKUBO**: *Ja*, like I said. I do not know how he did it. He was uncooperative. He could have extracted as Head of IT Security, he had quite a bit of powers. Access to the systems. He could have done it himself or alternatively, somebody ought to have given him access without authority and we do not know.

CHAIRPERSON: Sorry, did you say being Head of IT, he had powers to access other peoples emails?

MR FRANS LEKUBO: He has got a – As Head of IT Security he has got access to most of the systems but that does not mean that he could go into people's emails. It is

not one of his duties. He is responsible for IT Security, so in a way him and the IT Manager, they control the IT Systems within the PIC.

ADV JANNIE LUBBE SC: I think there is a misunderstanding. It is just to clear it up.

You interviewed Mr Mayisela.

MR FRANS LEKUBO: Yeah.

ADV JANNIE LUBBE SC: In the presence of his lawyer.

MR FRANS LEKUBO: Yes.

ADV JANNIE LUBBE SC: And you requested this information, who gave him the permission?

10 **MR FRANS LEKUBO:** Yeah.

ADV JANNIE LUBBE SC: What was the response?

MR FRANS LEKUBO: He reserved his rights. He did not want to comment.

ADV JANNIE LUBBE SC: Thank you Mr Commissioner. This concludes the evidence of this witness.

CHAIRPERSON: Yes. Thank you. Mr Lekubo, I just want clarity on this. He, Mr Mayisela being Head of IT [Intervenes].

MR FRANS LEKUBO: Yes.

CHAIRPERSON: Of course he would have access to, let us say everybody's line, if one could call it a line.

20 **MR FRANS LEKUBO:** Yes.

CHAIRPERSON: But whatever access he had did not mean that he has the authority or power to use it for his own purposes.

MR FRANS LEKUBO: Yes. That is what we meant here. So accessing people's emails, it is not one of his roles.

CHAIRPERSON: Thank you.

MR FRANS LEKUBO: Okay.

CHAIRPERSON: Once again, you – I am sure Mr Lubbe would have told you that, you might be called again if necessary. Correct?

MR FRANS LEKUBO: Alright. [Indistinct] Mr Commissioner. Thank you.

ADV JANNIE LUBBE SC: Okay Chairperson, my estimate of this witness was a bit too conservative.

CHAIRPERSON: Just say that again.

ADV JANNIE LUBBE SC: my estimate of the duration of this evidence was a bit conservative. I have a witness available to carry on, but I need 10 minutes to just
10 speak to this witness. Can I request that we have the tea adjournment now and then start at 11:00?

CHAIRPERSON: Start at 11:00 or when you call us and tell us you ready.

ADV JANNIE LUBBE SC: Thank you.

CHAIRPERSON: Thank you. The hearing will adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES:

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner, my next witness is ready to testify, his name is Mr Vuyani Hako.

CHAIRPERSON: Can I get your full names from you?

20 **MR VUYANI HAKO**: My full name, Mr Commissioner, is Vuyani Hako.

CHAIRPERSON: Yes, second name?

MR VUYANI HAKO: The second name is Wellington, so it's...(intervention)

CHAIRPERSON: No, no, no, I can't hear.

MR VUYANI HAKO: So it's Vuyani Wellington Hako.

CHAIRPERSON: Hako?

MR VUYANI HAKO: Yes, Commissioner.

CHAIRPERSON: Okay. Alright, did you say Commissioner or did you say Your Worship?

MR VUYANI HAKO: No, I said Commissioner.

CHAIRPERSON: Oh good, I thought Your Worship. Have you any objections to taking the prescribed oath?

MR VUYANI HAKO: So help me God.

CHAIRPERSON: No, no, no, answer me first, have you got any objections to it?

MR VUYANI HAKO: No, I don't have objections.

10 **CHAIRPERSON**: You don't have. Do you swear that the evidence you're about to give will be the truth, the whole truth and nothing but the truth, say so help me God.

MR VUYANI HAKO: So help me God.

CHAIRPERSON: Properly done, thank you.

ADV JANNIE LUBBE SC: Thank you Mr Commissioner. Mr Hako, just tell us briefly when were you employed by the PIC and in what capacity you are now serving?

MR VUYANI HAKO: Thank you, Commissioner, I was employed by the PIC on the 1 October 2014. I'm currently serving as an executive head for unlisted properties.

ADV JANNIE LUBBE SC: And you report to?

MR VUYANI HAKO: And I reported to the Chief Financial Officer, the CFO.

20 **ADV JANNIE LUBBE SC**: What are your qualifications?

MR VUYANI HAKO: My qualifications include a Bachelor of Science in Town and Regional Planning and a Masters in Business Administration.

ADV JANNIE LUBBE SC: You have prepared a statement on my request, it is before the Commissioner and his members. Can you just look at paragraph 8 thereof and just explain that to the Commission.

MR VUYANI HAKO: The unlisted investment portfolio is comprised of private equity, impact investing and unlisted properties.

Private equity is where investments are done in shares between companies. Impact investing is more your developmental type investments like infrastructure and I'm in the unlisted properties.

In unlisted properties we invest clients' money in physical properties or in entities that deal with properties.

ADV JANNIE LUBBE SC: Now to save time can you just place on record that you have seen and read the statement by Mr Roy Rajdhar who is the executive head of
10 Impact Investing, is that correct?

MR VUYANI HAKO: Thank you, Commissioner, yes I have seen the statement by my colleague and I have read it.

ADV JANNIE LUBBE SC: Is it correct that the investment processes of these divisions are – they are broadly similar to each other?

MR VUYANI HAKO: Well, it is correct, Commissioner, that the processes are broadly similar.

There is, however, a difference in the post-investments of the process. So the difference is in the post-investment.

Once the investment has been done there is a slight difference there in the
20 process.

ADV JANNIE LUBBE SC: And you also receive your mandate from...?

MR VUYANI HAKO: Thank you, Commissioner, we receive our mandate from our clients.

ADV JANNIE LUBBE SC: And they are?

MR VUYANI HAKO: The big ones are the Government Employees Pension Fund, the

GPF, the Unemployment Insurance Fund, the UIF and the Compensation Commissioner, the CC. Those are our main clients.

ADV JANNIE LUBBE SC: Alright, in paragraph 12, 13 and 14 it is similar to the impact investment testimony of Mr Rajdhar and just in paragraph 13 you mentioned there may be circumstances where proposals will be referred to the social and ethics PIC board and/or the client. Can you just explain in what circumstances?

MR VUYANI HAKO: Yes, thank you, Commissioner. Yes, this is also similar to the whole of unlisted investments, so in circumstances whereby a reputational risk for instance is likely to arise in an investment that investment, it will be referred to the
10 Social and Ethics Committee to determine if they have appetite or they are concerned about the investment.

ADV JANNIE LUBBE SC: Alright. Now can you just explain to the Commission, how do you get involved in this unlisted property deals, is it like the impact people where you have walk-in clients, most of the work comes in through the door or how does it happen? There's a question, sorry.

MR EMMANUEL LEDIGA: Ja. Just before you go forward, just give us – can you please give us a sense of the size of the Fund and maybe the building – you know, the buildings, the numbers there, just to get the context right.

MR VUYANI HAKO: The size of the unlisted properties is about 50 billion. The
20 number of buildings is approximately 162.

MR EMMANUEL LEDIGA: The next question is, what would separate direct buildings versus listed property, what would be the key differences? Why do you guys go to unlisted versus listed on the JSE. If you could highlight some key differences there.

MR VUYANI HAKO: Well, in unlisted investments we deal with the properties directly so whereas in listed they invest in an entity which is in the JSE and one of the reasons

why the client still want to invest in unlisted is because of the developmental impact nature of what we do.

For instance, when we invest in a brand new say shopping centre, so there will be an opportunity there for job creation, there will be an opportunity there for enterprise development.

ADV JANNIE LUBBE SC: Thank you. Can you just tell the Commission the how you start with this investment. Is it a walk-in client, is it referred to by – is a deal origination by the PIC investment professionals body? What is the situation there?

MR VUYANI HAKO: Well, thank you, Commissioner, as indicated under 16 it's a
10 combination of everything so but in majority it's more clients walking in.

ADV JANNIE LUBBE SC: So that's 16(a)?

MR VUYANI HAKO: Yes, correct.

ADV JANNIE LUBBE SC: Now, Mr Commissioner, from paragraph 16 to 60 is basically exactly the same as explained by Mr Rajdhar, the executive head of the impact investment portfolio. Can you confirm that, Mr Hako?

MR VUYANI HAKO: Yes, correct, Commissioner

ADV JANNIE LUBBE SC: Now then let's deal then from paragraph 61 of your statement where there is this difference then with respect to the other investments portfolios.

20 **MR VUYANI HAKO:** Thank you, Commissioner. Let me deal with the standard one first because once an investment has been done the ESG team and the VMV team will be responsible for monitoring that investment.

So in unlisted properties we also have that as well, so – and that part sits outside the – in our case, properties, it sits somewhere else, there an executive head responsible for that, so there's some kind of an independence there.

ADV JANNIE LUBBE SC: Who is that – sorry, who is that executive head?

MR VUYANI HAKO: It's my colleague Robina Solomon.

ADV JANNIE LUBBE SC: Thank you.

MR VUYANI HAKO: Okay. And then when there is a big difference is that in our case we have asset management and then we have property management as part of the post investment monitoring and now typically your asset management – maybe let me start with property management.

A property management can either be in-sourced, that is it can be in-house or it can be outsourced or outside.

10 So property management typically deals with the day-to-day – its operations, its collection of rentals, its management of arrears, its repairs and maintenance, cleaning, security, checking, monitoring of mechanical equipment, so it's more your operations type. \

So in our case this function is outsourced, it's done outside the PIC, so by ...(intervention)

ADV JANNIE LUBBE SC: Sorry and the PIC then pays a management fee to that outsourced entity?

MR VUYANI HAKO: That is correct, Mr Commissioner, you pay a property management fee in line with the market. So that is the property management part. And
20 the second part is the asset management. Now ...(intervention)

MS GILL MARCUS: Sorry, the question there – because you indicate that your property management is outsourced to Mowana, right?

Can we get a profile of Mowana provided and you say you have an interest in that. What is the size of the PIC interest in Mowana is about 76%.

MS GILL MARCUS: 76%?

MR VUYANI HAKO: 76%, yes.

MS GILL MARCUS: And you call that outsourcing?

MR VUYANI HAKO: Yes, so because it is done outside the PIC.

MR EMMANUEL LEDIGA: Just another question before you got to the asset management. I gather you're going to deal with that. Maybe going back, just in terms of developments, do you create your own developments or people come through the door to say they've got a shopping centre to develop and all that? So how does the process work within the PIC?

MR VUYANI HAKO: Thank you, Commissioner, in-house we have a development team
10 and then when we get a client from the outside wanting to say invest in a development, it's a shopping centre wherever it is and then – so that development will be done by that client in conjunction with our team in-house.

So we do a co-development because in most cases we invest for a long term so we co-invest alongside that client and then when that development is done we want to make sure that the product suits the needs of our client, so it's both.

MR EMMANUEL LEDIGA: About this developments, are they – people coming through the door or you guys develop your own buildings?

MR VUYANI HAKO: For brand new developments, Commissioner, it's more people coming through the door so but where it is about an existing property where we want to
20 redevelop for instance it's more in-house, we do that alone.

MR EMMANUEL LEDIGA: Alright, thanks.

MS GILL MARCUS: Just in relation – you've mentioned shopping centres as a focus of development, could you give us an indication in the investment whether it is – or how much, what proportion is, things like shopping centres or housing developments and what - is it low income, mixed income, high income property developments for housing?

Do you have a housing development strategy given your transformation mandate?

MR VUYANI HAKO: Thank you, Commissioner. Let me deal with the housing aspect first because our mandate doesn't allow us to do housing developments. I'm talking now properties.

So we don't do housing developments unless that housing is part of a mixed use development that we do. So, I mean, the example of that would be a V & A Waterfront, there is residential there but the residential does not become the primary use of that development. And ...(intervention)

MS GILL MARCUS: But sorry, just on that, if you're doing – using that as an example,
10 how would that square with a transformation developmental goal if you're doing residential accommodation in the V & A Waterfront? That's income generating, certainly, but not necessarily transformational.

MR VUYANI HAKO: Okay, thank you, Commissioner. So I was citing that as an example but within the PIC in impact investing, for instance, so part of their mandate is to deal with what we call affordable housing. So that is - housing in general is dealt with there.

MR EMMANUEL LEDIGA: Just another question.

CHAIRPERSON: You were still going to carry on.

MR VUYANI HAKO: Yes, Commissioner, there was a question asked on the split, I
20 was going to deal with that, with your permission. So the – so maybe let me just give this picture first.

So we invest in retail which is shopping centres, we invest in offices, the normal offices and then we invest in industrial portfolios and then there will be other specialised maybe acquiring land for strategic reasons.

The split is that our portfolio is biased towards retail, it's about 60%. Retail –

your question on the split, retail is about 60% of our portfolio and then offices is about 25%. So and between specialised and industrial is the difference.

MR EMMANUEL LEDIGA: Question. Making developments, there's a lot of architectural work, quantity surveying and all that. Do you use a supplier list and within that what are your BEE sort of requirements for – ja, for those.

MR VUYANI HAKO: Thank you, Commissioner. Yes, there is a database of suppliers which doesn't sit within properties, it's part of the finance division, procurement sits there.

So but when we do developments or when we procure we have a biasness
10 towards BEE and normally we use level 4 service providers and we also tend to look at 51% BEE ownership.

MR EMMANUEL LEDIGA: Thank you.

ADV JANNIE LUBBE SC: Yes, carry on?

MR VUYANI HAKO: So I think I was going to get to the aspect about asset management, so I was still explaining the differences. Property management I think I have done. Now the second one is asset management.

Now asset management, this one is done in-house, so what we do is we
allocate our asset managers, maybe 30 to 40 properties depending on the value of
those properties to manage from a strategy point of view and performance point of
20 view.

So the asset managers, their duty on a day-to-day is to make sure that they drive performance on those properties.

So but there is always a link directly between the property manager and the asset manager and one of the things that they do on a monthly basis is to sit and analyse reports of performance in terms of arrears, vacancies and repairs and

maintenance, etcetera.

ADV JANNIE LUBBE SC: Can you just then explain paragraph 65?

MR VUYANI HAKO: So paragraph 65, Commissioner, deals with the disposal or exit of investments. Now one of the things about properties is that we invest for a long term.

So but in the event that we need to exit an investment, say dispose of a property, there is a process which exists in-house which guides how we can dispose of that property, so – but also, that decision to exit an investment will be informed by the strategy of the asset manager for various circumstances.

MR EMMANUEL LEDIGA: Question. Can you please give a breakdown between new
10 developments or purchasing shares in current developments like the V & A which has bought.

MR VUYANI HAKO: Sorry, Commissioner, I didn't get that question well?

MR EMMANUEL LEDIGA: Ja. A breakdown between engaging in new developments versus buying shares in current developments like the V & A which you guys bought from others.

MR VUYANI HAKO: Okay, so our portfolio is split between what is called the directly held and indirectly held. So indirectly held is where we invest in entities that deal with the property investments.

So, for instance, you'll find that a V & A sits in an entity, so but the majority of
20 the developments that we tend to do is more on the directly held, so because of the reason which I mentioned before of a social impact.

MR EMMANUEL LEDIGA: But what is the percentage between what you build anew, new buildings, versus what you buy whether direct or - you know, or otherwise. Am I clear?

MR VUYANI HAKO: Yes, Chair, I will say it's about 60/40.

MR EMMANUEL LEDIGA: 60 to what?

MR VUYANI HAKO: 60 to what we do directly.

MR EMMANUEL LEDIGA: 40 new buildings, 60, you know, different things?

MR VUYANI HAKO: So I would say 40 brand new buildings which we do ourselves and then 60 those that we invest in an entity.

MR EMMANUEL LEDIGA: You buy, okay.

MR VUYANI HAKO: Yes.

MR EMMANUEL LEDIGA: Alright, okay.

ADV JANNIE LUBBE SC: Thank you. Now the Commission heard evidence that the
10 listed part of the business comprises at 80% of the business of the PIC, is that correct?

MR VUYANI HAKO: Well, thank you, Commissioner, yes, the listed is in majority, it's about 80%.

ADV JANNIE LUBBE SC: Now from the balance of 20% what is the percentage of your division?

MR VUYANI HAKO: The percentage of properties is about 5%.

ADV JANNIE LUBBE SC: In other words, it is – although the numbers are big, I think you said 50 billion, it's a small portion of the business of the PIC.

MR VUYANI HAKO: That's correct, Mr Commissioner.

ADV JANNIE LUBBE SC: Now you have heard – or it was explained to you before,
20 the terms of reference of this Commission of Inquiry. Do you know personally of any impropriety in the PIC relevant to the terms of reference?

MR VUYANI HAKO: Mr Commissioner, other than those which are in the public domain, to the best of my knowledge I am not aware of activities of impropriety in investments.

ADV JANNIE LUBBE SC: Can you just explain – I think it has been done before, what is meant by the Chinese wall between listed and unlisted?

MR VUYANI HAKO: So unlisted and listed have, for instance, different PMCs for the reason that we're not supposed to know what is happening in the listed, so we mustn't have that information. So in unlisted we don't know what is happening in the listed because of that Chinese wall.

ADV JANNIE LUBBE SC: To take a practical example, there was in the press the AYO Investment.

MR VUYANI HAKO: Yes, Chair.

ADV JANNIE LUBBE SC: And it was reported that all this happened in December 2017, the meeting of the PMC. Did you know about AYO in 2017 or 2018?

10 **MR VUYANI HAKO:** Thank you, Mr Commissioner, I would not have known because of the Chinese walls, I don't sit in the PMC responsible for listed investments.

ADV JANNIE LUBBE SC: When did you learn of Ayo for the first time that there was a let's say a newsworthy item about Ayo?

MR VUYANI HAKO: Well, Chair, I don't remember the exact dates but I read about it in the press so but I got to see more information when we were presenting documents to SCOPA last year.

ADV JANNIE LUBBE SC: Is that December 2018?

MR VUYANI HAKO: Yes, sir.

ADV JANNIE LUBBE SC: If there's not further questions by the Commission,
20 Commissioner or its assistants, Mr Commissioner, this is the evidence.

MS GILL MARCUS: Okay. Thanks. Are you aware of any member of staff or board who in their own – on their own or directly or indirectly participated in any of the equity investments?

MR VUYANI HAKO: Mr Commissioner, to the best of the knowledge I am not aware.

MR EMMANUEL LEDIGA: Two questions. The first one is just give us a sense of the

staff number and what they do, you know, generally within those broad categories, as a first question.

And then the second one is, your division reports to finance. One, you know, can you give us some reason why it's not reporting to unlisted side?

MR VUYANI HAKO: Thank you, Commissioner, I assume that the staff number you're referring to is property staff number. So in properties we are about 22, so within properties we have an asset management team and then we have a development team and we have a team that deals with transactions and deals. So but in total we are about 22.

10 **MR EMMANUEL LEDIGA:** And the second question? Do you remember that, that report into finance versus unlisted side, you know, give me some reason for that. Any reason?

MR VUYANI HAKO: Mr Commissioner, I do not have an answer.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

CHAIRPERSON: Sorry, can I just ask about the bonuses? It appears that there is some unhappiness with regard to the payment of bonuses, etcetera. Do you know anything about that and if so, what happened?

MR VUYANI HAKO: Yes, Chair, I am aware. Well, I think the general feeling is that the determination of bonuses is not a fair process and I think the feeling is that the
20 determination of bonuses could be more certain, could be more clearer.

MR EMMANUEL LEDIGA: Okay, just to follow up. Would you say the salaries or the packages that people get within your division, are they competitive? Are they market-related or competitive within PIC, the employees versus where they could go to?

MR VUYANI HAKO: Yes, Mr Commissioner.

MR EMMANUEL LEDIGA: Competitive?

MR VUYANI HAKO: Yes.

MR EMMANUEL LEDIGA: Sorry, once more. You said the determination of bonuses is not fair. Where does the unfairness come from? Is it inside the PIC or outside of it?

MR VUYANI HAKO: Well, Mr Commissioner, I am not so close to that process so I'm just indicating, you know, what I feel and what I get from other people.

MR EMMANUEL LEDIGA: Thank you.

ADV JANNIE LUBBE SC: While we're on that score, Mr Commissioner, perhaps I can ask this witness, so you understand the process regarding short term and long term incentives to employees?

10 **MR VUYANI HAKO:** Well, there is a remuneration policy that deals with that, Chair, so – but the determination of bonuses does not necessarily follow that according to me.

ADV JANNIE LUBBE SC: Is that that is causing the unhappiness amongst employees?

MR VUYANI HAKO: I would say so.

ADV JANNIE LUBBE SC: Thank you. Mr Commissioner, that is the evidence of this witness and I'm outpacing myself at the moment but I've made arrangements for the next witness to be available earlier. Can we start at 12.00 hopefully or as soon thereafter as possible?

CHAIRPERSON: We'll start at 12.00, yes. Fine, thank you, Mr Lekubo.

20 **MR EMMANUEL LEDIGA:** Hako.

CHAIRPERSON: Ag, Hako, that was the previous one. I'm sure the advocate told you that if necessary you might be called later again. Do you understand that?

MR VUYANI HAKO: Yes, Commissioner.

CHAIRPERSON: Yes, thank you.

MR VUYANI HAKO: Thank you.

WITNESS EXCUSED

CHAIRPERSON: We'll now adjourn until 12.00.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV JANNIE LUBBE SC: Thank you Mr Commissioner, we are ready to proceed, the next witness is ready to take the oath.

CHAIRPERSON: Your full names please sir?

MR ALBERT VAN DRIEL: Good day Mr Commissioner, my name is Albert van Driel, a member of the Association for the Monitoring and Advocacy of Government Pensions.

10 **CHAIRPERSON:** Alright, do you have any objections to taking the oath?

MR ALBERT VAN DRIEL: No objections.

CHAIRPERSON: No objection, do you confirm or swear that the evidence you're about to give will be the truth, the whole truth, nothing but the truth, raise your right hand please, say so help me God.

MR ALBERT VAN DRIEL: So help me God.

CHAIRPERSON: Thank you.

ADV JANNIE LUBBE SC: Mr van Driel can you hear me clearly?

MR ALBERT VAN DRIEL: Yes sir.

20 **ADV JANNIE LUBBE SC:** Can you start off by telling the Commission who or what is the AMAGP?

MR ALBERT VAN DRIEL: Yes, I can do that sir. The Association for the Monitoring and Advocacy of Government Pensions is a non-profit organisation consisting of voluntary members of the Government Employees Pension Fund who are required to act for the benefit of all serving government employees, which is 1.3million employees, GEP pensions and dependant members who are approximately 430 000 of the fund.

AMAGP have a Facebook page with over 6 000 people and employees with a broad spectrum of expertise and experience to support achieving AMAGP's objectives. We also have over 500 members who permanently joined AMAGP.

ADV JANNIE LUBBE SC: And what is the purpose of AMAGP

MR ALBERT VAN DRIEL: The purpose of AMAGP is the monitoring and the advocacy of GEPS funds, hereinafter referred to as the Fund. The objective of these activities is to ensure that GEPS nurtures the sustainability of the Fund as well as the legitimate benefits of pensioners and their dependants. This includes guarding any form of mismanagement or corruption.

10 **ADV JANNIE LUBBE SC:** And can you then just briefly deal with the purpose of this submission?

MR ALBERT VAN DRIEL: Mr Commissioner the purpose of the Commission concerns the AMAGP with regard to the Fund, we take note of the Commissioner's terms of reference as per Proclamation 30 of 2018. Our submission which follows is presented in accordance with the schedule contained in the Proclamation.

ADV JANNIE LUBBE SC: Thank you. Just to make it clear to the Commission Mr van Driel this presentation is the product of a team, is that correct?

MR ALBERT VAN DRIEL: Yes Mr Commissioner.

20 **ADV JANNIE LUBBE SC:** And I believe that most of the financial information and statistics in this presentation came from Mr Christo van Dyk who was a State Auditor and worked for many years in the office of the Auditor General.

MR ALBERT VAN DRIEL: That's correct Mr Commissioner.

ADV JANNIE LUBBE SC: Now you have a reservation with regard to the submission in paragraph 4, can you just state that for the record.

MR ALBERT VAN DRIEL: Yes sir, our sources of information apart from the Annual

Reports of both the Public Investment Corporation and the Fund, that's the GEPF Fund, are dependant to a great deal upon investigative journalists, but we also consult as many websites of organisations involved as we can.

ADV JANNIE LUBBE SC: Please proceed with paragraph 5 of your presentation.

MR ALBERT VAN DRIEL: Sir can I please before I proceed with paragraph 5 of the presentation make a point about the Older Person's Act Number 13 of 2006.

ADV JANNIE LUBBE SC: Sure.

MR ALBERT VAN DRIEL: Just a summary of the Act I am only going to give that Mr Commissioner. It says:

10 “To deal effectively with the plight of older persons by establishing a framework and an empowerment and protection of older persons and at the promotion and maintenance of their status, rights, wellbeing, safety and security and to provide for matters connected therewith.”

Shall I continue?

ADV JANNIE LUBBE SC: Please.

MR ALBERT VAN DRIEL: The considerations for the investigation by the Commission are first of all the independence, inter-dependence between the Government Employees Pension Fund and the Public Investment Corporation. Because the PIC, if I may use the abbreviation, because the PIC is only an agent which does the
20 investments for the Government Employees Pension Fund it means that there is a very strong relationship between the GEPF and the PIC and the reason for that is also not only the fact that they do the investments but because almost 88% of the assets being invested by the Public Investment Corporation is funds coming from the Government Employees Pension Fund.

The primary responsibility of the GEPF according to the 1996 Government

Employees Pension Act as amended, Section (6) the GEPS Board of Trustees may delegate their powers, but not their responsibilities. The GEPF is primarily responsible for ensuring that the Fund is managed in such a way that it is to the benefit of its members. The PIC is solely an investment agent of the GEPF, and performs only the latter's orders in accordance with the mandate given by the GEPF to the PIC. Of all the funds handled by the PIC approximately 88% belong to the GEPF. AMAGP submits that the investigation risks being not good enough if it excluded the GEPF's conduct from the PIC investigation.

As the principal the GEPF remains responsible for the actions of the PIC,
10 which is the agent to the GEPF, and its Board of Trustees are therefore complicit in the activities of the PIC. Now AMAGP is of the opinion that the Commission should therefore also consider the GEPF in particular the Board of Trustees responsible for actions with the Fund by the PIC. In this regard, with respect to the duties of each individual trustee of the GEPF the AMAGP refers to Appendix L, and that was a letter written by our Chairperson to the Chairperson of GEPF.

ADV JANNIE LUBBE SC: Yes carry on.

MR ALBERT VAN DRIEL: We remain concerned about the GEPF funds managed by the PIC with the possibility of said funds being abused with the alleged State Capturing. We are of the opinion that the trustees at the GEPF are the last, the first line of defence
20 in preventing the capturing of the GEPF, and also the PIC. The available evidence is that the danger of State Capture does not derive from within the GEPF or the PIC.

The breach of promise issued by academics of four universities report indicates that the danger to the Fund originates from a Presidential and other Executive levels, accordingly the ultimate protection of the fund is their fiduciary duty by the diligent application by the fund's trustees.

The trustees are also duty-bound to urgently institute very specific measures to resist all attempts from political level to capture of the GEFP. The GEFP funds that are presently administered by the PIC it's actually invested by the PIC, ensure that all investments are made with the utmost care and the sole interest of the fund and its members of the fund, ensure that State Capture of the PIC and the GEFP in whatsoever form will be thwarted and mandate to the PIC to such an extent that the three points above are actually affected.

ADV JANNIE LUBBE SC: Can I interrupt you here Mr van Driel, is that the submission of your organisation that this Commission in performing its mandate should also look at
10 the GEFP and Board of Trustees?

MR ALBERT VAN DRIEL: Yes Mr Commissioner.

ADV JANNIE LUBBE SC: Thank you. Please proceed.

MR EMMANUEL LEDIGA: Question, two questions, the 12% of the PIC money is managed for UIF compensation funds and the others and so it would appear that the PIC doesn't only manage GPF money, so how do you sort of reconcile that with saying that you know the PIC works for the GPF?

MR ALBERT VAN DRIEL: Yes Mr Commissioner we understand that very clearly, that there are about 12% of the funds which are done for other organisations as well. We actually do have a problem, it's not written into this submission but we do have a
20 problem that the mandate given by GEFP to the PIC was last properly updated only in 2011, because the mandate given as the date of the year, 2011. Does that answer your question sir?

MR EMMANUEL LEDIGA: In some ways, in some ways, in some ways. Let me just go to the second question. The PIC was separated from the Public Investment Commissioner, so it's an Act, you know the PIC Act 204, 205 and all that, and within

their as far as I know there's no link saying the PIC and the GPF are linked you know, because those are – the PIC is a separate company governed by the PIC Act. Is that clear Jannie?

ADV JANNIE LUBBE SC: I will just assist just in terms of that Act, the 204 Act, there's no link between the GEPF and the PIC.

MR ALBERT VAN DRIEL: Oh, that's the Act of the PIC?

ADV JANNIE LUBBE SC: Ja.

MR ALBERT VAN DRIEL: Yes Mr Commissioner that's a very good question, and that is one of our main problems also, the 2004 Act for the PIC is an Act given by
10 Government to the PIC as an SOE of the Government and therefore there is quite an amount of conflict between the Act governing the PIC and the Act which governs GEPF. I may also mention sir that the forerunners of the PIC that started in 1911 already, the first organisation upon which the PIC was built ultimately.

MR EMMANUEL LEDIGA: I'm not sure that I got the answer, I'm not sure, I'm not clear.

CHAIRPERSON: Do you just want to repeat your answer, your last answer?

MR ALBERT VAN DRIEL: Yes Commissioner I can do that. One of the big problems which we identified as we were monitoring both GEPF and the PIC was that the two laws, statutes governing each of those that there is a certain amount of conflict in
20 between those two laws, because the PIC is a State operated enterprise of Government and the GEPF has its own law which was developed over many years having started in the year 1911 already.

CHAIRPERSON: But the relationship between the two, PIC and GEPF, is that not governed by the mandates or is there something else that governs it, mandates that are given by GEPF, or FP rather to the PIC?

MR ALBERT VAN DRIEL: Yes Mr Commissioner, the relationship as far as we can see it is built upon the mandate, the written mandate given by GEPF to the PIC and that is the formal and legal relationship between the two organisations.

CHAIRPERSON: Is there any shortfall in the mandates that worry you or that worries your organisation?

MR ALBERT VAN DRIEL: Yes sir there is a shortfall in the sense that the GEPF and its trustees is supposed to invest, nurture and build the funds of the pensioners and that they have a fiduciary duty to see that there are no trespassers or contraventions. In the case of the PIC, because they are an SOE of Government it means that the
10 government can make all sorts of requests to the PIC which may possibly be in conflict with the instructions in the mandate.

CHAIRPERSON: That's the fear or can you pinpoint anything, has anything happened before that is a cause for concern?

MR ALBERT VAN DRIEL: Yes Mr Commissioner, unfortunately there is a very strong emphasis on things like doing developmental projects and often those developmental projects are not giving yields and some of them really crash within the first year or two, and therefore then that money is lost. There are also other things which can be identified and please Mr Commissioner forgive me if I say that the thing of Broad Based Black Economic Empowerment, and I'm not being political here, also creates a
20 problem. In the case of Dr Iqbal Survé's projects that has been clearly brought to the fore that the idea from the PIC in the beginning was that Independent Media and then later on Ajo, about which there was a lot of noises in the press, were actually very, very poor investments for many reasons, but it would appear that Mr Survé and his companies are not honouring the contract between the PIC and Sekunjalo originally go the loan and then of course Ajo also, so those were very poor investments and we have

actually from our side already identified that as a total loss of about R6.3billion.

CHAIRPERSON: Are you able to say that any one of those or both those investments were not in line with the mandates, is there any complaint from the organisation that those investments were not in line with your mandates, your organisation's mandates?

MR ALBERT VAN DRIEL: So if it was meant for solid Broad Based Black Economic Empowerment there's no problem, there would be no problem with it but for instance the conditions upon which the Independent Media contract or agreement between the PIC and Sekunjalo was done was extremely favourable for Mr Iqbal Survé. I can use – I can give you some examples Mr Commissioner about that, for instance they only had
10 to start paying rent, interest on the loan after five years. Then what actually happened is that Sekunjalo and Independent Media and other companies of Mr Survé could not honour the agreement and already at the end of the previous year, 2017, there was an impairment against Independent Media.

Now this year the annual reports came out very late, at the end of November last year, there were also impairments related to Independent Media of more than R1billion and we therefore came to the conclusion that in the case of Independent Media, Sekunjalo and Ajo that there is not a willingness to honour the contracts, and even if there was a willingness to honour the contracts some of that money has been fizzled away like for instance into the family trust of Mr Iqbal Survé and not for
20 operational purposes.

CHAIRPERSON: Would you say that there might have been a failure in considering the risk factor in these investments? I mean when you do invest there is risk involved, isn't it?

MR ALBERT VAN DRIEL: Yes Mr Commissioner you are quite right, that is one of the urgent risk factors. There are obviously many other broad based black economic

empowerment projects which have done very well, but in this case that was just an example, it was really a disaster.

MR EMMANUEL LEDIGA: Just as a follow up, I know you are going to take us through some transactions and all that, what I wanted to understand from you is that you seem to be having issues with the mandate that the GEPF gives to the PIC, because you know the GEPF does other things besides the investments. So do you – is your biggest problem the mandates that are given by the GEPF to the PIC, or you've got other bigger issues with regards to that?

MR ALBERT VAN DRIEL: Mr Commissioner basically the mandate given by GEPF to
10 the PIC is quite a good document, providing that they always keep in mind as previous Ministers of Finance have already said that the interest of the members of GEPF, from the pensioners and the members serving who will be pensioners maybe in 50 or 60 years that those interests of those people are actually served.

MR EMMANUEL LEDIGA: Just as a quick follow-up, so you say that document, you know the documents or the mandate are very good documents, what would you like to see done, you know given that this is a Commission to make recommendations and other things, what would you like to see done, would you like the mandate to change, or you know what would you like to see?

MR ALBERT VAN DRIEL: Mr Commissioner yes I think the mandate can be improved
20 but also if there would be other brokers doing investments for GEPF then of course it could also make a difference between the mandate towards the PIC. However we have noticed over the last say four years that the mandate was not properly followed by the PIC, in the sense that for instance bonds of organisations and SOE's and so on that there's a certain percentage of funds which should be spent on the bonds, and those percentages were exceeded to a great extent but what is also very, very worrying is that

Eskom who everybody is bashing now at the moment, that Eskom eventually went down to a B2 credit grading and a B2 credit grading is not suitable for investments, especially investments with large sums of money.

ADV JANNIE LUBBE SC: Can I perhaps assist here Mr Commissioner? Is there a problem for your organisation of the accountability of the PIC to the Board of Trustees, or in other words is there not proper oversight by the Board of Trustees in the performing of the mandate by the PIC? Do you follow what I say?

MR ALBERT VAN DRIEL: Yes Mr Commissioner that is a very relevant question, that is one of our big problems actually is that it would appear that the PIC was articulating
10 the mandate according to their own thoughts of what is good and what is not good. We for instance are very much in favour of when one would invest in good projects for job creations for instance, with pension funds whilst the lowest projects would be good and delivering a yield.

CHAIRPERSON: Is that not happening?

MR ALBERT VAN DRIEL: It is happening in certain cases, it's not that all the projects are not giving yields. Some of the Isibaya projects are doing okay about 30% of the Isibaya projects are not doing very well and some have fell by the way side actually. I will carry on. So the breach of promise from the universities was then, came in the public domain and they warned that both the GEPF and the PIC, especially the PIC
20 would be a target for those that are busy with State capture or activities very close to State capture. And then the trustees are duty bound to urgently institute very specific measures to resist all attempts from political level to GEPF funds that are presently administered by – invested by the PIC. I think that paragraph I've done Sir.

CHAIRPERSON: When you refer in the previous paragraph to Presidential and Ministerial level are you talking about political interference? "The danger to the fund

originates from Presidential and Ministerial level.” Are you suggesting there or is your organisation suggesting that there might be or there is or the fear is that there will be political interference?

MR ALBERT VAN DRIEL: Yes Mr Commissioner we know what it was like in the previous administration of the governing party and it actually refers to the previous administration. The impropriety of reinvestments and decisions; where there any alleged and prior to regarding investments and decisions that is only actually a repetition of what is in the Government Gazette. Then the application of the fund for political purposes; often hidden under the politically obscured term developmental projects the PIC and the GEPP indicated on the 11th August that in abbreviations all will agree that the GEPP and the PIC have a duty to develop socio-economic environment for financial returns. It remains on the GPF’s position that much – that such a duty is high-risk and cannot be reconciled with prudent investments especially if both the National Empowerment Fund and the Development Bank of South Africa, hereinafter called the DBSA has or have development mandate or roles and the PIC has invested copious amounts in both the DBSA and for instance the Industrial Development Cooperation.

MR EMMANUEL LEDIGA: Would I be right in saying that you wouldn’t want, you would want the PIC to only invest in listed companies, say blue chips or high grade bonds and not invest in developmental projects, would I be right with that?

MR ALBERT VAN DRIEL: No Mr Commissioner not necessarily. In the National Development Plan it has clearly been written and explained that each SOE and there are many of them, hundreds of them, has a developmental role and we feel that if a certain organisation has a developmental role they should actually do the development role and not expect the GEPP funds and the PIC to do that for them.

MR EMMANUEL LEDIGA: So basically then you are saying the PIC shouldn't play the role that DBSA is playing and should invest in only listed companies, am I clear?

ADV JANNIE LUBBE SC: Sorry can you just repeat that for the witness?

MR EMMANUEL LEDIGA: The answer he gave was there are developmental bodies that the government you know funds and all that, and so are you saying that the PIC shouldn't invest in development projects because there are other bodies dealing with that aspect?

MR ALBERT VAN DRIEL: Mr Commissioner I think there is one extreme example of Eskom for example where the PIC invested around about R90 billion in Eskom and that
10 is whilst the credit grading was down to B2 and even when everybody realised that Eskom was being misused by the Gupta family and so on, that is one example of where we feel that where there is bad management, poor governance that the PIC should not be allowed to invest the pensioners money in SOE's that are high-risk and where there's poor governance and where the results are not very good. We have been ensured by some members at the PIC that they are earning good interest from the SOE's of the money that they invest there, the bonds, but we also have come to the conclusion lately that the Eskom bonds, the debt on Eskom bonds seemed to be quite higher than the money that was invested by the PIC in Eskom which means that lately they say, we don't know how long, they were not able to actually pay the interest on
20 those bonds.

MR EMMANUEL LEDIGA: Thank you.

MR ALBERT VAN DRIEL: Ja and then after the first part of paragraph 7 we are now continuing with that Mr Commissioner. These organisations have the expertise to invest without placing the fund in jeopardy. They move closer to business and should have the experience and systems in place to deal with such matters. What will for

instance be the position if the DBSA refuses an investment and an application to the same investment is then approved by the PIC that would be a rather very difficult situation.

Financing unlisted investments Isibaya 1 and 2. The Isibaya amounts are now running up to about R130 billion whilst in 2016 it started off with R40 billion, should also be dealt with by instances such as the DBSA, the National Empowerment Fund and so on. We also have the feeling and we have looked at websites Sir that the National Empowerment Fund is not doing the job which it should be doing. I'm not sure whether it's because they are short of funds but they are not doing the job which they should be doing. Now Isibaya is actually doing what the National Empowerment Fund should be doing.

We believe that the fund is often used for political and non-profit purposes while disregarding its primary purpose namely to ensure the fund's sustainability and legitimate payments to pensioners there is no mandate to invest in politically driven projects that yield a poor return. Examples of these are the following; risky investments in SOE's perform extremely poorly, they run on the verge of bankruptcy and at times must be saved by the Government. Now I may just add here Sir that there are about 700 SOE's and it's not all the SOE's that are bankrupt or that are performing extremely poor, there are some of them that are extremely, performing extremely well.

The lines are also not fully guaranteed by Government and even if it does the rating agencies Standard & Poor's on the 24th November 2018 indicated that the Government would not be able to honour those guarantees. With regards to Eskom only, there was a typing error Sir, only 67%, not million Rand, from around a R90 billion investment is guaranteed by the Government. Due to poor interest the PIC apparently no longer purchase Eskom securities on auctions because they no longer take place

due to the lack of interest. They now buy securities directly from Eskom at prices that are unknown the public. It is not the purpose of the Fund to develop State entities it's also an open question how much the investments in SOE's are currently worth. There is even a suggestion by a commentator during a radio interview that R100 billion of Eskom's debt should be written off to the PIC as the Fund is funded to 120% which is not true, at the moment the funding level is lower. It is disconcerting because the Fund is not owned by the Government but by the members but also because the Fund is unfunded and it already faces sustainability risks.

Investments BBEE and ESG unlisted projects that yields little or no return.

10 **CHAIRPERSON:** There's a question.

MR EMMANUEL LEDIGA: Some of, ja on that point on 7.1 towards the end you are saying that some commentators mentioned that you know, that the Eskom debt has got to be written off, what one is seeing is that they refer to the Fund as a defined benefit fund that the GPF is a defined benefit fund meaning that if it goes into default the Government will stand you know for that fund. Do you think they are justified in saying that that it's a not a defined contribution it's a defined benefit fund meaning that the pensioners will get their money no matter what happens to the GPF?

MR ALBERT VAN DRIEL: Yes Mr Commissioner that's also a very relevant question. These kind of calls have come from various angles lately, there's Mr Dick Forslund who
20 made comments in a newspaper towards the end of November last year that the Government can rather borrow money from the PIC and not from the World Bank because it will be at a better rate. So these kinds of suggestions have come from all, from some sides, it's not a very general call but it's come from a couple of organisations and also individuals. The problem really is that if there's a zero coupon rate on investments that had been made in Eskom it would mean first of all that the GEPP is

losing that 67.8% guarantee by the Government firstly. Secondly, their income is, the cash flow of the GEPF is already going down and therefore it will have another negative effect on the cash flow of the GEPF in order to be able to deliver on the promise of pensions and benefits to various categories.

UNIDENTIFIED SPEAKER: Sorry Commission may I add something there if you don't mind on the question?

CHAIRPERSON: I didn't hear you?

UNIDENTIFIED SPEAKER: Sorry Commissioner, may I add something if you don't mind on the question?

10 **ADV JANNIE LUBBE SC:** I'm sorry Mr Commissioner can I just explain what's happening here. The presenter Mr Van Driel is assisted by some of the organisation members and it's up to the Commission to decide whether they're going to allow some of the assistants to assist and talk directly to the Commissioner.

CHAIRPERSON: I'm very uncomfortable with hearing two witnesses at the same time and when one is under oath and the other one is not. I would rather prefer you make a note of what you would have want to add and then after he has given evidence to take the stand and fill in what you want to fill in.

UNIDENTIFIED SPEAKER: Commissioner thank you very much, I'm comfortable with that.

20 **CHAIRPERSON:** Yes, thank you.

ADV JANNIE LUBBE SC: Thank you. Can I, and on this point, just ask that we take the lunch adjournment now Mr Commissioner?

CHAIRPERSON: Just a question before we adjourn.

MS GILL MARCUS: It's not quite a question and perhaps it's also directed to you Adv Lubbe, a lot of the points being made here are I think, require follow-up and other

information and I was wondering whether both the current witnesses as well as yourself out of, perhaps I'm just going back a little bit to the earlier evidence as well, I think that I would certainly like to hear more explanation on our earlier witness why there was no follow-up on the James Nogu subpoena because the assumption from that would be that they assumed Mr Mayisela was the same person and I don't think that that should just be left to stand. I think the question about Mowana I think that we should be provided with all of the outsourced companies that have been created, who the boards of directors are, what kind of funds they manage, to what degree they manage and when they were created and how long and the quantum of PIC contracts that any of

10 these companies have had irrespective whether they're in property or not. And in terms of the risk management from the PIC itself is to get some, a better sense from them is do they only look, while you look at an entity it has been mentioned here Iqbal Survé's companies, the independent newspaper and the Ayo investment are they looked at simply separately or cumulatively in terms of risk and therefore what assessment is made of the total exposure and are there limits in say not just the delegation of authority but what that exposure is so that when one's looking at your exposure to an entity whatever it is, what is actually the total exposure and at what intervals. I mean it's relevant in relation to the evidence being given here about independent newspapers not serving but they were appointed in, if I remember 2013 ... (intervention)

20 **ADV JANNIE LUBBE SC:** Correct.

MS GILL MARCUS: That deal took place. Therefore when you follow with Ayo in 2017 what account did you take of the servicing of the debt or the loan or the investment in the 2013 investment to inform your decision and I feel that the PIC should provide us with some information on that. I would also like to see the full exposure of PIC to all State Owned Entities as well as a service of the investments, the interests earned per

entity and whether there've been any defaults.

ADV JANNIE LUBBE SC: I'm in respectful agreement with those remarks, it's all noted and it will be addressed.

MS GILL MARCUS: Thank you.

MR EMMANUEL LEDIGA: Can I, ja just to add one point is that it appears to me that a lot of people lost jobs because of the leaked, you know leakage of the you know some information, so I just wanted to determine whether that is the case and can somebody come and tell us how those reports which we dealt with in the morning have contributed to the job losses or loss of jobs for the IT people and the others.

10 **ADV JANNIE LUBBE SC:** Thank you Mr Commissioner, also noted it will be addressed.

CHAIRPERSON: What do you suggest what time we come back?

ADV JANNIE LUBBE SC: We can adjourn until two o'clock for the lunch adjournment Mr Commissioner.

CHAIRPERSON: We'll adjourn until two o'clock.

INQUIRY ADJOURNS

INQUIRY RESUMES

20 **ADV JANNIE LUBBE SC:** Thank you Mr Commissioner. During the lunch break, I had the opportunity to sit down with the team presenting this presentation and I have explained to them that I have provided this presentation this morning already to The Commission for ease of reference and as a result of that, we have agreed not by trying to cut them short in their presentation, but for practical purposes that first of all The Commission will be in a position to ask them any questions arising from the presentation but that they in their presentation will just highlight certain aspects which they want really to emphasise and that the gentleman who asked me to tender his

apology for arriving late and that is not his problem. It was as a result of my rescheduling of the presentation.

Mr Visser is here and it was agreed that Mr van Driel will carry on and if he needs assistance or clarity on his responses that it will be provided to him by way of a note and he will then present it. If it is okay with The Commission we will proceed in that manner.

CHAIRPERSON: That is fine. Thank you.

ADV JANNIE LUBBE SC: Thank you Mr Commissioner. Mr van Driel, you can then proceed with your presentation. Paragraph 8 entitled the VBS Case.

- 10 **MR ALBERT VAN DRIEL:** Mr Commissioner, I am sure most people at the moment and yourselves have a lot of knowledge because VBS Bank has been in the news due to the curatorship placed upon them by the Reserve Bank; however I would just like to make a few notes. I had made notes about it. VBS Bank was of course not very highly capitalised, but then they got the idea in their head that they want municipalities to invest with them, which is against the law, because municipalities may not invest in a mutual bank.

- As it is the GEFP at 26 percent interest of shares in VBS and the PIC has placed Mr Nesani and Magula as Directors to represent the PIC and GEFP at the VBS Board. The first amount of money that was deposited for the 26 percent was
- 20 R300 000 000 and later on it appears that there was a credit line of another R350 000 000 given to VBS and it is very likely that that refers to very unlawful action which happened where the VBS Bank was used as a platform by, excuse the language, any Dick, Tom and Harry, to buy diesel for Eskom because Eskom was then in big trouble and they had to use diesel generators to keep the lights on.

At that time, towards 2015 and probably 2016, Eskom said that they were

spending R10 billion on diesel per year. Then coming back to the VBS Bank, is after the received round about R2 billion unlawfully from municipalities, they probably thought that because Mr Zuma borrowed R7.8 million from them and that they got this R2 billion from the municipalities they thought probably the time for the big party has now started and the big – One of the big instigators was the Chairperson of Vele and of course the Venda king was also involved. There was another senior official of Vele also involved and those three were the brains behind the idea that the VBS Bank should satisfy the avarice and the needs of people who want to enrich themselves and therefore they practically trespass every rule that bank should have had in place.

10 There was nothing right that they did. They did everything wrong. Together with the R350 000 000 It means that the PIC was exposed to the sum of round about R650 000 000 towards the VBS Bank. That is now the Venda Bank.

ADV JANNIE LUBBE SC: Okay. You can now proceed. I think we agreed that you will deal with paragraph 11.

MR ALBERT VAN DRIEL: Mr Commissioner, then the cash flow from the fund. The cash flow of the fund since about 2016 was in trouble because they could not maintain a reasonable amount of funding reserves in order to honour their commitments for beneficiaries. If we can go [Intervenues].

CHAIRPERSON: Sorry, when you talk of cash flow from the fund. Which fund is it?
20 GEPF or PIC?

MR ALBERT VAN DRIEL: We talking about - Mr Commissioner we talking about the cash flow out the Government Employees Fund. Pension Fund. Our auditing specialist Mr Christo van Dyk, he made some very good arithmetic and then he determined that since about 2016 the contributions coming into the GEPF Funds are not sufficient to pay all the beneficiary categories. Apart from that, it is also – It was also pointed out

and found by him that the interest and the dividends coming in is also not enough to cover operational costs and those interest and dividends eventually had to help to pay the benefits. The result of that was ultimately that less new investments could be made because it was not enough cash available to make reasonable good new investments.

ADV JANNIE LUBBE SC: You refer to Appendix E and The Commissioners will have a look at that as proof of this statement. Can we then go to Item 1.2 Ineffective Governance.

MR ALBERT VAN DRIEL: Mr Commissioner, yes. The Ineffective Governance is also a problem from AMAGP's point of view, because both GEPF and the PIC Board started
10 talking to us reasonably well and we had some meetings and we invited them to attend some of our annual general meetings, however in July 2017 we came to a meeting with the PIC. Senior people of the PIC and GEPF and with a long negotiations before the time, we put some questions to them which they said they would answer.

At the end of July 2017 when we came to that meeting, they suddenly decided that they not going to answer those questions anymore. We consider this as very impolite and that they clearly did not have a good idea of protocol and communication and we will come to the communication which they also tapped themselves on the shoulder with, saying that their communication is very good. In that case it was not very good. Can I go on with trust?

20 **ADV JANNIE LUBBE SC:** *Ja. Ja.*

MR ALBERT VAN DRIEL: As far as trust is concerned, due to the PIC and GEPF's way of dealing with AMAGP's representative of reasonable amount of pensioners and we have undertaken that we will also work for all serving members at 1. 3 million who are working in Government at the moment.

ADV JANNIE LUBBE SC: That is one thing I wanted to ask you Mr van Driel. Are you

just representing the white interest in the Fund or are you representing all the interest in the Fund?

MR ALBERT VAN DRIEL: Mr Commissioner, yes we are representing everybody because we have also gone through careers in Government. Various State departments and we considered it very important that junior people now for instance, in the army or the navy or wherever or a very junior clerk in a Government Department, if they are now done in and their pension fund is damaged to the extent whether Railway or Transnet Pension Fund was deteriorating it would be extremely unfair if those people, when they come to where we are at the moment as pensioners and they

10 suddenly find out that that promise of a pension which was a service condition when they joined, will not be there anymore. Therefore we sincerely believe that we are looking after the interest of each and every one that are members or serving members of the Government Employees Pension Fund.

ADV JANNIE LUBBE SC: Thank you. Can you deal with paragraph 16. Sustainability of the Fund?

MR ALBERT VAN DRIEL: Mr Commissioner if we can with the sustainability of the fund, if you can move to the very last Annexure, which is a new one which we added for the simple reason that the 2018 annual report of GEPF, only came out officially at the end of the November last year and our auditing specialists Mr Christo van Dyk, then

20 had to do all that analysis and he came up with a new – With a new sustainable document.

Just give me a chance to get to that document please. It is then the last Annexure which we added to the main document and it starts with GEPFs 2018 Annual Report Review and Mr van Dyk then concentrated obviously, mainly on this sustainability of the Fund. Somewhere here, I think he has a summary and I think not

to take too much of your time, we may possibly look at the summary. It says:

“It says the long term funding ratio is less than 100 percent for 12 years in a row. The pension liability increases cannot be quantified because in 2018 actual evaluation was not completed in time. The production capacity of investments has reduced. Interest on investments has not kept pace with the growth of investments overall. Escalating investment expenses versus reduced returns. They actually regarded the below expected investment returns in 2016 already has a significant strain on the fund. It does appear that the investments has already reached the point of diminishing returns. The net pre-retirement discount rate was reduced again and this impacts the pension liabilities.”

10

If we can just look at figures Mr Commissioner, it is – Things are changing very fast but it is round about R90 billion which is needed by this time each year to pay the benefits of pensioners and the other categories of benefits. The contributions from the Government let us say the contributions of the employer and the employees is not enough. It is about 2 percent – 1½ to 2 percent below what it should be, in order to maintain that kind of funding and then due to that, as I have explained before, some of the interest and dividends had to be used to make up the difference between what came in and what had to be paid out.

20

ADV JANNIE LUBBE SC: Thank you. And can we then jump to Item 1.15. It is an important part of your presentation, dealing with a Governance Model that you would like to see in future.

MR ALBERT VAN DRIEL: Which one is it? Mr Commissioner yes. The Governance

Model is also a problem. As we have explained before is that due to the different laws applicable to both the GEPF on the one side and to the PIC on the other side, there is a conflict of interest in that and that causes a situation where the PIC would sometimes manipulate or articulate things which they want to do which is not really included in the mandate of the GEPF.

ADV JANNIE LUBBE SC: If you can look at paragraph 24, where you recommend or suggest a division of the mandate? Can you deal with that?

MR ALBERT VAN DRIEL: 34?

ADV JANNIE LUBBE SC: 23.

- 10 **MR ALBERT VAN DRIEL**: Oh 24. Mr Commissioner, we have come to the conclusion due to a number of things that went wrong at the PIC whilst the PIC and both GEPF for many years had very good evaluations also from a Canadian company. International company in Canada, that things were going wrong to the extent that it cannot be tolerated anymore. That the PIC is the main and the only investment agent or the GEPF. Just to mention for instance the things that had gone wrong at the VBS Bank. The oversight was not there of the representatives from the PIC who sat on the Board of the VBS. Both of them, according to press releases and Advocate Motau's later finding was that both of them, apparently received bribes of round about R7 million. Now if you place Directors at an outside company where you have an interest in - And
- 20 even those Directors then get involved in 'monkey tricks' if I may call it that, then it is not good for an organisation like the PIC or the GEPF to be associated with that kind of thing, so the oversight was not good and we do not know - They should have reported on a regular basis, say two weekly or so to the management or the Board after PIC. Apparently that did not happen because this wrong doing at the VBS was going on for a long time and it is very sad that eventually the two Directors that were placed there on

behalf of the PIC and the GEPF, that they also got involved in being corrupted and so on.

And there is no legal reason why the PIC should manage all the funds of the GEPF and would probably be - There are four bullets, would probably be:

- efficiency,
- greater control over investment and professionalism.
- risks, smaller spread investment are likely to be done and prices best costs can be negotiated,
- Diminishing the potential for political influence.

10 **ADV JANNIE LUBBE SC**: Thank you. If you can then deal - You also have something to say [Intervenens].

MR EMMANUEL LEDIGA: We heard in this Commission that there is about R200 billion which is externally managed that the PIC has given to other Fund managers. Are you suggesting that that money should not be allocated by the PIC, but it should be done by the GEPF, because there is some money which is managed, you know, by – You know other managers but they get it from the PIC. Are you saying that maybe that should be done by the GEPF directly.

MR ALBERT VAN DRIEL: Commissioner of I understand you correctly, you are asking me whether other investors and brokers with a good record should also be involved in
20 the investment of the funding which at the PIC on behalf of GEPF. Is that what you are saying sir?

MR EMMANUEL LEDIGA: Yes. I am saying that there is money which is managed by outside managers, but from the PIC side.

MR ALBERT VAN DRIEL: Yes Commissioner that is our idea that there should be spread of funding to brokers and investors that have very good records to actually do

those investments on behalf of GEPF. There are many of those and they are also very good Black investment brokers which we think could be used for that and some of the – It is only a very small percentage of those that have been used by the PIC up to now, who did not make a very good success of it but generally speaking it was reasonable, because they were then sub-contractors to the PIC to do actual investments but our feeling is that that contracting of other brokers and investors should be done directly by the GEPF.

ADV JANNIE LUBBE SC: Can he just get a moment here Mr Commissioner. Mr Commissioner it brings us back to the conflict of interest due to the two different laws
10 that the GEPF and its Trustees have fiduciary responsibility to make sure that the Funds are invested to the best benefit of its members and the pensioners whilst indications of the PIC, because they are an SOE of the State, that they will be doing the job or the instructions which is given to them by the Government as an SOE and that sometimes is in conflict with the fiduciary responsibility to grow the fund.

CHAIRPERSON: Are you suggesting that in our recommendations we should suggest or recommend that the GEPF funds, should not all be administered by the PIC but by itself or part of those funds. What are you suggesting?

MR ALBERT VAN DRIEL: Exactly Mr Commissioner. That is our feeling and due to the troubles we have been having for instance, like not only bad investments, but
20 confidentiality. Not willing to disclose information when we ask for it. That we feel that would be to the best interest of the Government Employees Pension Fund, to all its members, to the pensioner and to the pensioners in future generations, 40 to 50 years from now.

CHAIRPERSON: But why can the members of the GEPF in their meeting with its annual general meeting or whatever not give that direction that we now say that some

of the funds of the Fund must be administered by the – It must decide to use other agents in order to invest the funds.

MR ALBERT VAN DRIEL: We will answer you in a minute please sir. Mr Commissioner, you have summarised correctly. However, we still feel strongly that the trustees of the GEPF are responsible to oversee these investments and to make sure that the investments are done to the best interests of the members and the pensioners.

On the other hand, the PIC is an organisation and SOE of the State and the PIC will probably try to do the development roles which the State would expect from them and as we have explained before, those development roles of the PIC has
10 become huge in the meantime because everybody every time the State or the government is in trouble and they don't have cash to do something then they put pressure on the board of the PIC for it to be used as a piggy bank to do the development role of other SOEs like, for instance, the Empowerment Fund.

CHAIRPERSON: Do you know of any law that prescribes that the funds of the GEPF must be given to the PIC for it to invest them? Is there any law that directs that?

MR ALBERT VAN DRIEL: Mr Commissioner, no, there is no hard and fast rule or law for that matter that all the funds must be given to the PIC from the GEPF to do the investments.

In a mandate and in the investment policy statement there are efforts in
20 order to indicate that the PIC should actually follow the mandate as is given to them and which is part of the investment policy but, however, in spite of that, the PIC has one agenda and the GEPF has another agenda.

MS GILL MARCUS: Thanks. Notwithstanding the point about the two different obligations it's not necessarily agendas but two are mandates. The question I think, yes certainly, and something that could be looked up from the legal team because there

are explicit requirements where funds coming into the treasury or wherever have to be invested, so I think if we could just look at this question of obligation. Again, you know, part of it was to get the accuracy about where funds must be invested in terms of which law and whether it's an obligation in relation to the GEPF or practice that has developed. I think it just needs some clarity there.

But secondly, could it – would it be possible, you've said that there's been an unwillingness to disclose information in the engagements with the PIC, can we ask you to provide in due course to the evidence team to look at exactly where they have declined or obfuscated responses?

10 So what information were you seeking and clarify where you're seeking that you did not get satisfactory answers to. I think it would be very useful for us to have a sense of what – where there has been a non-response or an inadequate response.

MR ALBERT VAN DRIEL: Commissioner, can I go into the last question please? Yes, there is a serious problem in the case of both those organisations that use the excuse of confidentiality not to answer our questions.

In appendix A or B you would notice that there is a whole trail, record of letters to GEPF which we have written to them and where we very often get more of a lecture than we get the detail that we ask for.

20 In the case of the PIC we have also written a couple of letters to them which unfortunately they have flatly ignored because at the meeting at the end of July 2017 the GEPF was not very happy that we also communicate with the PIC because they say it's their investment arm, we shouldn't communicate with them.

Eventually we decided that that was a kind of intimidation and that we will not listen to that. However, in spite of that, the letters afterwards which we wrote to the PIC to get answers for instance on the Survé company investments, for instance on

VBS and for instance on the air and energy project was never answered and we came to the conclusion that those questions were too difficult to answer, therefore they decided they will not answer them.

Commissioner, if I may come back to the first part of your question, due to the fact that we could not get answers for the excuse of confidentiality and secrecy, we then used another avenue and that was the Public Protector. We went to the Public Protector and we gave them a number of issues which we consider problematic.

The Public Protector then undertook they would attempt to get the PIC, the GEPF and ourselves together around a table so that we could discuss it and
10 unfortunately we've not come to that point we can actually do it but the Public Protector's investigators have assured us that they are still working on that one.

ADV JANNIE LUBBE SC: You also had something to say about, in paragraph 25, about the qualifications, experience and character of trustees, members of the PIC board.

MR ALBERT VAN DRIEL: Yes, Mr Chair, this is obviously quite a sensitive matter and through what we are trying to say in this paragraph, we are not saying that the board at PIC is incompetent or that they're not doing their work properly or that they are not well enough qualified to do their work, we are simply concerned that both at the PIC and the trustees at GEPF must be better evaluated and appointed into those positions.

20 And we then say that minimum requirements are to be considered as members of the board of trustees and absolute of disqualification of board members should be determined, for example political relationships, absence of investment experience, aspects that reflect negatively on a person's integrity.

ADV JANNIE LUBBE SC: Thank you. And then we can move to the last part of the presentation and that is your conclusions from paragraph 34 onward.

MR ALBERT VAN DRIEL: Mr Commissioner...(intervention)

ADV JANNIE LUBBE SC: It's paragraph 34, Mr Commissioner.

MR ALBERT VAN DRIEL: “The purpose and priority of the GEPF is according to the

law the stewardship of funds belonging to the funds that's the GEPF fund's members, pensioners and their dependants in a sustainable and equitable manner.

10

The fund is not a piggy bank to support risky political inspired transformation projects or to save bankrupt SOEs. The risky influences and apparent interference of politicians and those politically connected must be urgently eliminated. The primary responsibility and accountability for the Fund lies with the GEPF's board of trustees.

The very important directional and controlling fiduciary role they should play according to the relevant law is apparently neglected.

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The present impression is that the PIC is in control of the Fund instead of the GEPF. The management of the PIC and the board of trustees of the GEPF have certain fiduciary responsibilities in respect of reporting poor governance or negligence as set out in the relevant laws. If they violated these principles it has become time for the persons to be held accountable.

As set out above, there are a number of suspicious transactions, investments, more so because the cash flow is unhealthy and the sustainability of the Fund is under pressure.

AMAGP acting for the sake of the members has reasonable questions which are not answered satisfactorily by the GEPF and

the board of trustees. AMAGP is of the opinion that insufficient accountability as well as the professed confidentiality of action and transactions vis-à-vis the members of the Fund has probably led to the situation in which the PIC finds itself today. The impression that AMAGP receives from the PIC is one of opacity, insufficient accountability and possible tampering. The primacy of the shareholders of the Fund, i.e. the members, is not respected. It is a sign of disregard that members are largely kept in the dark creating a breeding ground for mistrust and fertile potential for poor oversight.

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If the Fund such as the Railway Fund becomes unsustainable it would lead to an increased tax burden. If the government cannot fulfil the guarantee to the fund it will also lead to a catastrophe among pensioners most of which depend largely on their pensions. Due to the size of the Fund it would have a significantly adverse impact on the economy.

It appears that the PIC creates the impression that they employ rigorous decision-making processes, transparency studies and in light of the above information, as well as failures such the African Bank, Steinhoff and VBS. This is highly questionable.

20

Urgent attention should be given to both the process and apply the potential inference.”

If you come back to the – go back to the previous paragraph, paragraph 14, in there we can include:

“Air and Energy, Independent Media., Azure, Isibaya, S & S

Refineries in Mozambique, two parts of PAIDF managed by Harith and Lebashe was where Mr Tshepo Mahloele is involved. Abraaj a company in Dubai. Kilimanjaro Sakhumnotho who will land the money to purchases shares in Total South Africa, VBS Bank and SOEs like Eskom, Transnet, SANRAL and a Trans-Caledon project.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner, that concludes the presentation unless there are further questions from the Commission to the presenter.

MR EMMANUEL LEDIGA: Tell me, your organisation, AMAG – is it AMAGP? Is your
10 organisation represented on the board of GEPP? Sorry, when I said on GEPP, I meant the board of GEPP.

ADV JANNIE LUBBE SC: Ja, that's how it was understood, thank you, Mr Commissioner.

MR ALBERT VAN DRIEL: Mr Commissioner, we have on pensioner representative as part of the trustees. He is the 17th trustee at the GEPP and that is Dr Fans Le Roux. We feel strongly that for 430 000 pensioners or beneficiaries only one trustee to represent the pensioners is not good enough and the – you were also asking Mr
20 Commissioner about yearly meetings and so on. There's no such thing that GEPP has a yearly general meeting, they only give out annual reports and sometimes those annual reports are very late.

For instance, last year's annual report up till the end of March only came out at the end of November. What also happened, both with the PIC and the GEPP last year is normally they had a proper timeslot at the Standing Committee of Finance in parliament. This past year they slipped them in and we didn't even know about it. We normally have people in Cape Town that attend those meetings. We didn't even know

about it.

So there is really a communication problem and there is a problem of representivity also.

MR EMMANUEL LEDIGA: Yes, thank you.

ADV JANNIE LUBBE SC: Mr Commissioner, this will conclude the proceedings of the day. We're sitting with a situation that we must attend urgently because this is the last week of the Commission sitting in January. There are outstanding matters raised by the Commission on various issues that we have agreed with the PIC and the legal representatives and representatives to have an urgent meeting and to address those
10 matters and perhaps prepare a consolidated answer to the Commission to save time and not bring back all the witnesses and we need time to do that. If that is acceptable I will request an adjournment then till ten o'clock tomorrow morning.

CHAIRPERSON: Yes, thank you, Adv Lubbe. Yes, the Commission will adjourn until ten o'clock tomorrow morning. Thank you.

INQUIRY ADJOURNS