

COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT CORPORATION

HELD AT

TSHWANE, PRETORIA

10

30 JANUARY 2019

DAY 6

20

PROCEEDINGS HELD ON 30 JANUARY 2019

CHAIRPERSON: Good morning everybody.

ADV JANNIE LUBBE SC: Good morning Commissioner.

CHAIRPERSON: Just before you start I think yesterday I heard something like a cell phone going off. Can I please remind people within this auditorium to please put your phones on silent if you can't switch them off completely? Yes Mr Lubbe?

ADV JANNIE LUBBE SC: Yes thank you Mr Commissioner. Mr Commissioner before I proceed, I wish to place on record that my next witness is Mr Seanie, he is one of the persons that was suspended by the PIC last week with Mr Madavo. I was in contact
10 with the PIC last night and my colleague who's representing the PIC, Mr Phoswa who's present, advised that there's no objection to Mr Seanie testifying before the Commission in fact it's supported by the PIC and it will not in any way impact on the conditions of his suspension. He is ready to proceed and he can take the oath.

CHAIRPERSON: Your full names are Victor Timothy Seanie?

MR VICTOR TIMOTHY SEANIE: That's correct Commissioner.

CHAIRPERSON: Have you any objection to taking the prescribed oath?

MR VICTOR TIMOTHY SEANIE: I don't.

CHAIRPERSON: You don't, if you don't then do you swear that the evidence you're about to give will be the truth, the whole truth and nothing but the truth, raise your right
20 hand and say so help me God.

MR VICTOR TIMOTHY SEANIE: So help me God.

CHAIRPERSON: Thank you, you may be seated.

MR VICTOR TIMOTHY SEANIE: Thank you.

ADV JANNIE LUBBE SC: Mr Seanie you're employed by the Public Investment Corporation as an Assistant Portfolio Manager Non-Consumer Industrials is that

correct?

MR VICTOR TIMOTHY SEANIE: Yes, that's correct.

ADV JANNIE LUBBE SC: You have prepared a written statement in preparation for today giving evidence before the Commission is that correct?

MR VICTOR TIMOTHY SEANIE: Yes.

ADV JANNIE LUBBE SC: I want you to give your evidence from that statement but do it slowly, the Commission and members of the Commission are in possession of a copy of your statement but they will also make notes while you testifying so if you please do it slowly and you can start.

10 **MR VICTOR TIMOTHY SEANIE**: Okay.

CHAIRPERSON: Adv Lubbe my copy is unsigned.

ADV JANNIE LUBBE SC: The original is signed ... (intervention)

CHAIRPERSON: The original has been signed?

ADV JANNIE LUBBE SC: And it is with the Commission.

CHAIRPERSON: Okay, thank you.

20 **MR VICTOR TIMOTHY SEANIE**: Good morning Mr Commissioner. So I'm an adult male currently employed by the Public Investment Corporation the PIC as Assistant Portfolio Manager for Non-Consumer Industrials. Save where the context indicates to the contrary or where it's other stated the facts contained in this statement are within my personal knowledge and are to the best of belief both true and correct. I have been to an extent being following the statements made by the witnesses who have been giving evidence in this Commission as well as been following some of the media coverage from various media outlets. I do not intend to address any of the above directly but to the extent that I may omit to deal with any particular allegation referring to or affecting me directly and to the extent that such allegations are inconsistent with

what is set out in this statement, same is denied as if specifically traversed.

Before I set out my version and understanding of the matters that relate to the terms of reference of this Commission I would like to, by way of introduction, set out my educational background and experience in investment management. Furthermore I am going to set out the events that led me to approach this Commission and give my side of the story. My education and work experience; I completed matric in 1999 and passed it with six distinctions. I obtained a Bachelor of Business Science Finance Honours Degree from the University of Cape Town in 2004. In 2005 I obtained a Bachelor of Commerce Honours in Accounting Degree from the University of
10 Johannesburg.

I served articles at PricewaterhouseCoopers or PWC as a trainee accountant from 2006 to 2008. I then qualified as a chartered accountant CASA at the end of 2008. In 2013 I became a Chartered Financial Analyst or a CFA Charter Holder. I joined Allan Gray as an Equity Analyst in 2009. I then joined Kagiso Asset Management as a Senior Equity Analyst from 2014. In October 2016 I began working as Assistant Portfolio Manager at PIC.

My investment management experience; I have researched, financially modelled and made investment decisions on more than 1 000 publicly traded companies during my 10 year investment career. My job title at PIC is Assistant
20 Portfolio Manager. Based on my previous experience my roles is essentially that of an Equity Analyst without the authority to directly manage company share portfolios with full discretion. My role at PIC entails making investment recommendation on publicly listed companies to portfolio managers verbally and in writing. The portfolio managers have the discretion to decide whether or not to implement my recommendations. It is therefore important to note that listed equity investments made at PIC ultimately

generally reflect the investment views and decisions of the portfolio managers, general managers and the senior executives.

I believe I was the closest individual to the Ayo Technology Solutions or Ayo and Sagarmatha Technologies or Sagarmatha Transactions at the PIC in terms of familiarity with Ayo and Sagarmatha's prelisting statements questioning Ayo and Sagarmatha and their representatives *etcetera*.

The next section is key individuals involved in the Ayo transaction. The main people who were involved in the Ayo transaction from the PIC include but are not limited to the following; the CEO at the time Dr Daniel Matjila or Dr Dan, the CFO
10 Matshepo More, the Executive Head of Listed Investments Fidelis Madavo, the General Manager of Listed Equities Lebogang Molebatsi, a Portfolio Manager Non-Consumer Industrials Sunil Varghese who is also my line manager, my direct report, Assistant Portfolio Manager Non-Consumer Industrials myself and the PIC's Risk, Legal and Environmental Social and Governance or ESG teams represented by Tshifango Ndadza, Sasa Fako and Sylvester Sibeco respectively. The main representative from Ayo whom I dealt with was Malick Salie, AEI's Head of Corporate Finance and Business Development.

ADV JANNIE LUBBE SC: Before you proceed can I just interrupt. We've heard the evidence of Mr Madavo that that the crucial time of this transaction that he was out of
20 the country. Can you just tell the Commission what your interaction was with Mr Madavo with regard to the Ayo transaction?

MR VICTOR TIMOTHY SEANIE: Okay so just firstly if we, if we're going to define the crucial time of the transaction roughly I would say, I stand to be corrected, it might be from about maybe the 10th December 2017 up until about the 20th December 2017. Now my interaction with Mr Madavo in relation to Ayo, the first contact, the first

interaction came indirectly on the 16th November 2017 that is when I received the instruction from his personal assistant to attend a meeting with Ayo and Ayo's representatives in ... (intervention)

ADV JANNIE LUBBE SC: What is her name?

MR VICTOR TIMOTHY SEANIE: Her name is Gugu.

ADV JANNIE LUBBE SC: Is it correct that she has also left the PIC?

MR VICTOR TIMOTHY SEANIE: Yes, she has left the PIC.

ADV JANNIE LUBBE SC: Alright and you received an instruction from her regarding the Ayo transaction?

10 **MR VICTOR TIMOTHY SEANIE:** Yes.

ADV JANNIE LUBBE SC: What was ... (intervention)

MR VICTOR TIMOTHY SEANIE: Saying that Fidelis Madavo told her to go down to the meeting to tell me.

ADV JANNIE LUBBE SC: Yes proceed.

MR VICTOR TIMOTHY SEANIE: Ja so, so I heard through her from Fidelis that I needed to attend the meeting on the 16th November that was the one interaction. Then I recall having at least one other interaction with Mr Madavo before he went on leave in December, I don't know exactly the time of that interaction but his office in line of sight from my desk and he indicated to me that the report on Ayo that's written and
20 eventually submitted to the PMC should be a favourable one.

ADV JANNIE LUBBE SC: Yes thank you, proceed.

MR VICTOR TIMOTHY SEANIE: Ja okay how equity research reports for final PMC approval are reviewed. So certain large listed investments such as Ayo require prior approval by the PIC's Portfolio Management Committee for Listed Investments also known as PMCLI or just PMC. Four types of reports are submitted to PMC in order for

the Committee to make its decisions. An appraisal or equity report, an ESG, a risk and legal report. After carry out my research and due diligence on a prospective investment I compile the equity research report containing background information, analysis, a conclusion and recommendation on the investment. This equity research report is then reviewed by my Portfolio Manager Sunil Varghese then it is reviewed and recommended for submission to PMC by the General Manager for Listed Equities Lebogang Molebatsi and finally reviewed and approved for submission to PMC by the Executive Head of Listed Investments Fidelis Madavo. The reviewers read these reports in detail and instruct me to edit the report as they see fit.

10 In my experience at PIC I have had no control over the conclusion and recommendation sections of the equity reports that I compile. The essential content of the conclusion and investment recommendation sections are dictated directly to me by Sunil Varghese, Lebogang Molebatsi and Fidelis Madavo who review the report. In many instances this lack of control extends to other sections of these reports such as valuation, therefore the most important aspects of the report; valuation, conclusion and recommendation are dictated by my reviewers. My lack of control over and final say on the content of the conclusion section ... (intervention)

CHAIRPERSON: Can we just clear up something.

MR VICTOR TIMOTHY SEANIE: Okay.

20 **MR EMMANUEL LEDIGA:** Just a quick question because I know we'll ask towards the end but some quick question here is that in terms of the, sort of the recommendations are there policies with regard to that as the analyst or the assistant portfolio manager you can make a recommendation and that is cast in stone and all that?

MR VICTOR TIMOTHY SEANIE: Ja as far as PMC submissions I'm not aware of policies that address the recommendation and conclusion section specifically, so I've

gone on practice and the practice at the PIC in my division specifically, in my team has been that the recommendation and conclusion paragraphs essentially are sanctioned by the reviewers. Okay my lack of control over and final say on the content of the conclusion sections of PMC equity reports that I compile and the recommendation sections particularly concerned me in the cases of Ayo, Vodacom Tanzania and Distell.

My general experienced of how the PIC operate when making investment decisions, I will in order that I, so that I stick to my experience I will say at least my department Listed Equities and in my personal experience. First I must state that I was very shocked to have been handed a suspension notice on the 22nd January 2019 this
10 was very unexpected as I'm a very small player in the bigger scheme of things at the PIC and in respect of the Ayo transaction. Following this it became very important that I speak out as I realised that there were forces that were working against me and this Commission could be my only salvation to a good name and my professional integrity both of which I've worked hard for.

Accordingly I would like to give a bit of background about my experience at the PIC in relation to how investment decisions are often made. I would also like to take this opportunity to speak on behalf of my colleagues who fear to come forward and speak at this Commission because the general culture at the PIC is one of victimisation and suppression of voices of reason. I hope many of them will be encouraged to come
20 forward and have their say for the betterment of the organisation.

In my experience sound investment recommendations by investment professionals are often ignored at PIC. However, I must hasten to add that there is a lot of good at the PIC. Having said that I learnt that the PIC's work culture is also one of intimidation, you don't question you comply, ostracism, fear, coercion and undermining the independent research views of investment professionals.

Furthermore, PIC has no trusted independent whistleblower hotline that I am aware of. This adds to the anxiety of many of us to speak up.

ADV JANNIE LUBBE SC: Can I again interrupt you, do you know that there is a hotline at the PIC?

MR VICTOR TIMOTHY SEANIE: Yes I know of a hotline but it is not trusted, I don't believe it's independent, yes.

ADV JANNIE LUBBE SC: Thank you.

MR VICTOR TIMOTHY SEANIE: I joined PIC with the understanding that it is – that it has a mutual mandate to generate returns on behalf of clients and to contribute to the development mental goals of South Africa. I believe in these principles. However, I
10 observed at least one incidence of a culture of pushing through deals that fulfil neither objective for example Sagarmatha and Vodacom Tanzania illustrate this phenomenon. I expressed my very negative view of Sagarmatha and stated that its forecasts were extremely bullish. Despite the recommendation I made in April 2018 to invest in Sagarmatha at a price of R7,06 or less per share compared to a listing price of R39,62 per share set by Sagarmatha, the PMC recommended the transaction for approval to the Investment Committee or IC which is a Board, PIC Board subcommittee. I discuss more of this investment later.

In June 2017 I recommended that the PIC not invest up to R1.15 billion in
20 Vodacom Tanzania at TSh850 per share because I valued the company at TSh683 per share. This was agreed to by all my seniors and we signed a notification memo on the 4th July 2017 informing PMC of this. However, on Tuesday the 18th July 2017 my line manager Portfolio Manager for Non-Consumer Industrials Sunil Varghese sent me an e-mail stating:

“We will be holding a special PMC on Monday or Tuesday next week in

favour of Vodacom Tanzania. They have agreed to give us a put option of TSH683 exercisable after three years and an underwriting fee of 1%. Hope you can amend the report on the weekend.”

Given that the PIC is a long-term investor and intending to hold the Vodacom Tanzania shares for a long period, more than three years, I did not believe that the put option provided adequate long-term downside protection for our clients. I communicated this to my line manager.

After PMC approved the investment in Vodacom Tanzania I was criticised by the General Manager for Listed Equities Lebogang Molebatsi for not showing conviction
10 for an idea I did not believe in but that those in decision-making positions at PIC were determined to make although he did empathise with me somewhat.

MR EMMANUEL LEDIGA: Question, that you put, you know sort of how many years were you thinking they should put it on because they said three years but how many years were you thinking the option, the put option should take?

MR VICTOR TIMOTHY SEANIE: So my belief is that a put option essentially is insurance against the decline in a share price and I believe that the duration of that protection for it to be genuine protection it should match the duration for which you plan to hold that share and the PIC has stated that when it comes to investments in the rest of Africa, outside South Africa they take a quasi-equity approach whereby they would
20 buy a meaningful stake in the company and then appoint representatives onto the company’s board, that’s the general approach and importantly they state that they intend to hold that investment for a long period of time, for long-term. Long-term in my mind is more than four to five years so I would’ve, I would think that that option should have been in place and provided protection for four or five years or more, for as long as the holding period is.

Okay introduction to Ayo; on the 16th November 2017 at around 10:15 I was instructed by the Executive Head of Listed Investments Fidelis Madavo through his personal assistant to immediately attend an introductory meeting with Ayo at PIC's offices. I believe I attended the Ayo meeting on the 16th November 2017 with my colleagues Sunil Varghese the Portfolio Manager for Non-Consumer Industrials and Desmond Sibuyi the analyst for Non-Consumer Industrials. Ayo was represented at the meeting by Malick Salie AEI's Head of Corporate Finance and Business Development, Kevin Hardy the CEO, Simphiwe Dodwele Chief Investment Officer and I think about two others whose names I cannot perfectly recall. My meeting notes have their names
10 down as Walter and Mbuso.

The purpose of the meeting was for Ayo's management and representatives to present the Ayo investment opportunity to PIC with the intention to obtain PIC support for and participation in its listing on the Johannesburg Stock Exchange, the JSE. These type of introductory meetings happen regularly.

ADV JANNIE LUBBE SC: I'm sorry to interrupt you. Do I understand you correctly that you were instructed that same morning to attend the meeting it was not as if there was a meeting arranged previously and you were asked to put it in your diary and that you will attend on that day, you were instructed the same day to go to that meeting?

MR VICTOR TIMOTHY SEANIE: Yes, that's correct. Ja that is the unusual part of it,
20 usually when we have meetings of this nature we receive in advance an invitation for the meeting. This meeting was not scheduled in my calendar and so I had to attend it immediately. An unreasonably short timeframe given for the Ayo process; given this statement I used the – okay excuse me I'll start again.

Throughout the statement I use the terms initial public offering or IPO and listing via private placement interchangeably since we are dealing with new listings. To

begin research work on a company about to have an IPO or new exchange listing we as investment analysts typically study the company's prospectus of prelisting statement. I requested Ayo's prelisting statement from Malick Salie via e-mail on the 17th November 2017 at 10 to four in the afternoon. Mr Salie only e-mailed me Ayo's prelisting statement a week later on the 24th November 2017 at a minute past eight in the morning.

ADV JANNIE LUBBE SC: Again sorry to interrupt. At the first meeting that you attended was it made clear to everybody that it's an urgent type of investment decision that must be taken?

10 **MR VICTOR TIMOTHY SEANIE:** Oh yes it was. When companies meet us they typically give us a timeline of events leading up to the listing of the company and I do stand under correction in terms of when I received that timeline but I know that the timeline was for the company to list in December and you know later on we confirmed that the closing date for applications to participate in the listing was around the 15th December.

ADV JANNIE LUBBE SC: And then also a point is Mr Salie took a week to send you the prelisting statement?

MR VICTOR TIMOTHY SEANIE: Yes. In this section I measure approval timeframe as time from receipt of a company's prelisting statement or prospectus so the date of final
20 transaction decision approval or otherwise by the PMC. The estimated approval timeframes and estimated transaction values for IPO's I have worked on as Primary Equity Analyst at PIC are as follows; Vodacom Tanzania 11.7 weeks for an investment amount of around an estimated R840 million; RH Bophelo 9.9 weeks to invest between R400 and R500 million; Sagarmatha 11.7 weeks for an investment between R3 billion and R7.5 billion this is the range that Sagarmatha sought; and then Ayo 3 weeks for

R4.3 billion. The three weeks is measured until the 15th December 2017 the closing date of the Ayo private placement.

According to the notes from our first meeting on the 11th January 2018 Sagarmatha management indicated that they wanted to list on the JSE at the end of January 2018 this would have given the PIC less than three weeks to conduct its approval process in order to participate in Sagarmatha's listing. Because it manages the capital ... (intervention)

MR EMMANUEL LEDIGA: Question, just in terms of the timelines here why was the Ayo transaction sort of, why were you guys given three weeks, was their statement
10 ready before you know, did they come late to the PIC what precipitated that?

MR VICTOR TIMOTHY SEANIE: Ja I will deal with it later. Because it manages the capital sought by companies PIC has the power to dictate timeframes to companies seeking funding from it. The Ayo process was unusual in that it seemed to me Ayo was dictating timeframes to the PIC. I found this strange and untoward. On the 22nd January 2019 at this Commission PIC's Executive Head of Listed Investments Fidelis Madavo said:

20 "...in IPO's you have challenges in that people come one month or so prior to IPO and they want PIC to participate, and we have had instances where we have sent them away to say look we have a process, we have a two-stage process where we need to do a proper due diligence, we incorporate other teams in what we do. Look you want the PIC to participate, we have processes, if you don't want our processes then we can come on board after you have IPO'd, I think we have said that."

In my observation what Mr Madavo stated in the above paragraph was done with some companies however, it was not done by management above my level in the case of

Ayo. “Investing without research is like playing poker and never looking at the cards” that quote from Peter Lynch. As a result of the very short timeframe at least 70% shorter than usual to conduct the Ayo process I believe it was in the best interest of our clients and the PIC for all relevant teams to immediately commence research into Ayo. As a result, on the 27th November and the 30th November 2017, I made a professional judgment call and requested our ESG, risk and legal teams to allocate team members to assist on the Ayo IPO. The intention of my request was to quickly alert these teams to the fact that due diligence would be required due to the fact that there was extreme time pressure to conduct the Ayo process. Usually due diligence exercises begin after

10 PMC has granted approval for due diligence. Based on my experience I was confident that PMC would in any event approve a due diligence exercise. Note that doing due diligence does not automatically mean that an investment will be made.

On the 1st December 2017 at five to three in the afternoon I contacted my colleague in the company secretary department to request her to schedule a PMC meeting to approve due diligence at the earliest possible date. According to an email I received from my Portfolio Manager on 5 December 2017 at 12:20, a PMC meeting that I presume I scheduled for around 6 December 2017 was postponed. A PMC meeting was scheduled for 13 December 2017. This PMC meeting was never held. I believe I was informed by Company Secretariat the reason, was a failure to achieve a quorum.

20 It is important to note that under lying of intention of a PMC approval for due diligence is to ensure that the sufficient PMC appetite for investment to justify expenditure on a due diligence exercise. This is because some due diligence exercises involve incurring expenses for travel, appointment of external services providers, consultants, *et cetera*, however the due diligence I requested for Ayo at that stage, only involved desk top research, without any additional direct expenses, therefore PIC’s

resources were still being efficiently utilised.

Faulting me for following the spirit of prudent investment procedure, by requesting due diligence work from the ESG risk and legal teams which would have certainly been required as the first reason out of 3 PMC has given for my suspension on 21 January 2019. Had I not requested our ESG risk and legal teams to conduct due diligence, no documented evidence in the PIC would have existed by 14 December 2017, that Ayo in my view was a bad investment.

Whether PMC approval was received for the due diligence is immaterial to the substance and spirit of the process. I believe commencing research for due
10 diligence which did not involve the incurring of additional costs as early as possible was in the best interest of our clients. At the PIC Commission on 23 January 2019, PIC's head of internal audit Lufuno Nemaqovhani was asked for reasons given by employees for flouting processes and whether internal audit looked into that. Lufuno replied, 'May I for now not respond to that question, given that it was still a work in progress.'

When internal audit asked me, why I requested the teams to commence due
diligence work at the time I did, I provided the same reasons I discussed in the above paragraphs. I also provided reasons to Lufuno and his team for the second reason for my suspension which I discussed later in this statement. The Ayo transaction was a foregone conclusion. On 8 December 2017, at 14:45, I sent the following email to Ayo
20 representative Malick Salie, AEEI's Head of Corporate Finance and Business Development. The subject of the email was: Ayo, PIC process. I wrote:

"Dear Malick, as mentioned when we spoke, the earliest the PIC can make a decision on whether to participate in Ayo's IPO, is near the end of January 2018, this means that the proposed listing date of 15 December 2017 would be too early

for PIC to participate. Are you able to move the listing?

Kind regards

Victor.”

After 6 days on 14 December 2017 at 14:34, Malick Salie sent the following response:

10 “Dear Victor, Thank you for your email. I understand that many of these questions were dealt with in the presentation to the Executive teams by our senior Executives. From my understanding, the urgency of the listing as a result of the impending contracts with one of the big corporates have a need for Black empowered ICT players is what is driving all of the urgency. I also understood that their support from the PIC Executives, in the light of the BT Agreement and the growth forecast for Sasol and the acquisition strategy. I would check with Khalid and the team but I know that the listing is definitely proceeding this year and this was a critical discussion which was held with the senior PIC Executives. This is just my view as a sort of a worker bee in the system, but I will check with Khalid and Kevin and ask them to give a call to the relevant people. Of course, all of this is way above my pay grade.

20 Kind regards

A M SALIE

ADV JANNIE LUBBE SC: Can you just explain the BT Agreement, what is – What is the meaning of that?

MR VICTOR TIMOTHY SEANIE: The BT Agreement. The BT Agreement was an agreement between Ayo and its parent company at the time AEEI for Ayo to acquire

about, I think it was about – It was about a 35 percent stake in BT. BT South Africa. So BT is a subsidiary of British – BT Group in the UK, formerly British Telecoms and it is a IT Communications business and that was one element of the greater BT arrangement. The other element was for BT to transfer some of its business into Ayo, as part of this agreement, so to enable BT to become empowered. That was Ayo's whole strategy that they had the employment credentials and they would then acquire companies who are not as empowered as they are in order to bolster their empowerment credentials and so win more business and to increase their market share.

ADV JANNIE LUBBE SC: Thank you.

- 10 **MR VICTOR TIMOTHY SEANIE**: Malick Salie's, delayed response to my email, was typical of the dismissive way, I and my immediate PIC team were treated by Ayo's Executives and Representative. We believe that this dismissive treatment was a direct result of the high likelihood that they were assured that they would receive the R4.3 billion from the PIC regardless of different views from my immediate team. 14 December 2017 email from Malick convinced me that regardless of my own opinion of investment merits of Ayo, individuals with decision making authority at PIC, had already decided that they would ensure that PIC invests in Ayo.

- 20 There was no negotiation around the Ayo listing price. When companies offer their shares in an IPO, it is normal for the company to negotiate the IPO share price based on the demand for shares from mainly institutional investors. The PIC listed equities team was never engaged to negotiate and IPO price for Ayo. Ayo approached us with a fixed R43 per share which we were not allowed to negotiate. When we questioned the R43 valuation, we were told that the R43 cannot be changed. In conversations with my Portfolio Manager Sunil Varghese and General Manager Lebogang Molebatsi, I expressed my view that the R43 per share valuation was

excessive. They agreed with this view.

How Iqbal Survé controls Sagarmatha and Ayo. In substance I believe, Ayo and Sagarmatha are co-subsidiaries of ultimate effective controlling Shareholder, the Survé family. The Shareholding structure is as follows: Ayo is 49.39 percent owned by African Equity Empowerment Investments Limited. AEEI. AEEI is 61.17 percent owned by Sekunjalo Investment Holdings (Pty) Ltd or Sekunjalo. Sagarmatha is 96 percent owned by Sekunjalo. Sekunjalo in turn is 100 percent owned by the Haras Trust. The Trustee of the Haras Trust is Iqbal Survé. The beneficiaries of the Haras Trust are Reyhan Survé and Sara Survé. Both Iqbal Survé's children.

10 The perceived personal relationship between Dr Dan Matjila and Iqbal Survé. On 4 April 2018 at around 14:00, a meeting was held between the PIC listed equities team and Sagarmatha Management at the PIC office. Attendees from the PIC were Fidelos Madavo, Lebogang Molebatsi and myself. Attendees from Sagarmatha was Iqbal Survé and Takudzwa Hove. The purpose of the meeting was Sagarmatha had approached PIC to subscribe for between R3 billion rand and R7.5 billion rand in Sagarmatha shares in Sagarmata's IPO.

 During the meeting Iqbal Survé said, I consider Dr Dan a good friend. Now I believe this relationship was a genesis and primary driver of the PIC's investment in Ayo. Dr Dan signs the Ayo Subscription Agreement without PMC approval. Before
20 08:30 in the morning of 14 December 2017, Dr Dan told myself and Lebogang Molebatsi, the General Manager of Listed Equities, that PIC will subscribe for R4.3 billion of Ayo shares in Ayo's IPO. This timing on that day is based on evidence from a text message. To effect this, Dr Dan signed the Ayo irrevocable Subscription Agreement and instructed Lebogang Molebatsi to co-sign it as Lebogang was the acting Executive Head of Listed Investments at the time in Fidelis Madavo's absence.

The Subscription Agreement was signed before 11:44 as Dr Dan's personal assistant scanned and sent it to me at 11:44 on 14 December 2017. I thought, signing the Subscription Agreement was highly irregular, because I had never seen it happen before and PMC had not yet approved the Ayo transaction. We raised our qualms, due diligence incomplete lack of PMC approval about entering into the Ayo Transaction but Dr Dan overruled us. In an informal meeting I attended around the day of signing the Subscription Agreement, Dr Dan said and I am paraphrasing: 'I will use my authority as CEO to sign the Ayo Subscription Agreement and have the decision ratified at the next PMC meeting.'

10 Rubber stamping the Ayo transaction. Later in the day on which Dr Dan signed the Ayo Subscription Agreement the 14 December 2017, I completed compiling the Equity Report that needed to be submitted to PMC for an approval. Strictly speaking, ratification decision of the Ayo transaction. In the sections of the report I had control over, I expressed by negative view of the investment by highlighting the many and significant risks of Ayo and the fact that management's assumptions underpinning the Ayo Evaluation were very optimistic.

Given that the Ayo investment had already been irrevocably entered into by Dr Dan signing the irrevocable Subscription Agreement, my Equity Report reviewers, Sunil Varghese and Lebogang Molebatsi in accordance with what I deduced to be Dr
20 Dan's wishes, dictated that the conclusion and recommendation sections of the Equity Report reflect a favourable investment recommendation for Ayo. This report was presented to PMC on 20 December 2017. There is nothing from my side that manifested support for the Ayo investment before it was entered into on 14 December 2017, therefore there was no common purpose between me, the CEO Dr Dan and The Equity Report reviewers. The ESG risk and legal teams emailed their completed due

diligence report to me on 14 December 2017 at 17:21 ESG and 15 December 2017 at 08:21, legal and 11:00, risk.

My colleague in our risk team, Tshifango Ndadza raised pertinent concerns relating to Ayo, such as counter-party exposures, perfect High Risk, governance and revenue forecast, among others. [Intervenues].

ADV JANNIE LUBBE SC: I am sorry to interrupt again. I just want The Commission to note that this gentleman will also be called as a witness.

MR VICTOR TIMOTHY SEANIE: PMC Members were likely aware [Intervenues].

MR EMMANUEL LEDIGA: Question. You mentioned that the CEO mentioned that he
10 can use his – You know, he can use his authority to overrule you guys. Did he have such powers within the delegations framework.

MR VICTOR TIMOTHY SEANIE: To overrule us?

MR EMMANUEL LEDIGA: Did – On this transaction.

MR VICTOR TIMOTHY SEANIE: To overrule the PMC or to overrule us as individuals team members.

MR EMMANUEL LEDIGA: Yes you say Dr Dan said that he is going to use his powers as the CEO to approve this transaction. Does he have those powers.

MR VICTOR TIMOTHY SEANIE: Oh I see [Intervenues].

MR EMMANUEL LEDIGA: To approve without going through the process.

20 **MR VICTOR TIMOTHY SEANIE**: To my understanding, it does not. *Ja*, this is the first time that I have ever been in that situation at the PIC, because the process says that PMC has to approve the transaction. To my knowledge I understand the DOA does not allow him to make that decision unilaterally.

Okay PMC Members were likely aware that the Ayo Subscription Agreement was signed before the PMC Meeting. The following PMC Members in attendance at the

PMC meeting are in 20 December 2017 signed the Ayo payment memo on 19 December 2017. Dr Dan Matjila CEO at the time, Motsepo More, the CFO at the time, Leon Schmidt the active Executive Head of Listed Investments, Winifred Sechedi, the acting Executive Head of Legal Counsel, Governance and Compliance and Goniwe Adams, The acting General Manager of Listed Equities.

It therefore stands to reason that the above 5 PMC members we aware that the irrevocable Ayo Subscription Agreement had been signed prior to 20 December 2017. Given the timing and sense of urgency of the 20 December 2017 PMC meeting, I assumed the 3 remaining PMC members in attendance were also aware the
10 Subscription Agreement was signed before this meeting, therefore I believe PMC members in general were already aware that the Ayo Subscription Agreement had been signed before 20 December 2017 PMC meeting and I believe whether the Subscription Agreement had been signed or not, had no bearing on appraising the investment merit of Ayo, which I believed was the reason for the PMC meeting. The second stated reason out of three for my suspension was that I failed to disclose in a PMC meeting that the Subscription Agreement had already been signed. This insinuates that I inappropriately withheld information from PMC that PMC was unaware of, note that during the PMC meeting, I was not asked whether the Subscription Agreement had been signed. I therefore did not deliberately withhold this information from PMC.
20 [Intervenues].

ADV JANNIE LUBBE SC: Just for the record, can you remember who chaired this meeting?

MR VICTOR TIMOTHY SEANIE: If I remember correctly, I think the Chair was Matsepho More the CFO.

ADV JANNIE LUBBE SC: Thank you.

MR VICTOR TIMOTHY SEANIE: Conditions precedent introduced, despite the Ayo transaction already being substantially executed. At the PMC meeting held on 20 December 2017 to approve the Ayo transaction, the following conditions precedent were proposed and accepted by PMC members. The PIC and Ayo entered into put option to protect PIC's client against a Share price decline, also referred to as downside protection.

ADV JANNIE LUBBE SC: While you are busy with that, can you briefly explain to The Commission, what is meant by a downside protection.

MR VICTOR TIMOTHY SEANIE: Okay, so downside protection in this context means
10 that the investor, the PIC would enter into a transaction with a counter party. In this case Ayo or its representative in order to protect the investor from a decline in the share price. So what would happen is the two parties would agree that if the share price declines from a certain level, the counter party would pay to the investor an amount to compensate for the loss in the share price. So it is essentially buying insurance for the share price falling. Okay, the second condition precedent was a commitment that Ayo will spend the equity funds raised only on acquisition for growth and within 24 months. Third the legal and ESG teams performing complete due diligence and providing feed back to the PMC Committee. Ayo implementing a conflict of interest policy. The appointment of independent non-Executive Directors to the Board of Ayo and
20 Shareholder approval for all acquisitions other than BT that are greater than 10 percent of Ayo's market cap.

Specifically I recall that the CFO at the time Matsepho More proposed the first conditions, the downside protection at the 20 December 2017 PMC meeting. I found it very strange, if not disingenuous and irregular because Ms More was aware of the irrevocable Subscription Agreement had already been signed on 14 December 2017

and she had already signed the Ayo payment memo on 19 December 2017. In other words she knew the Ayo was a done deal already.

ADV JANNIE LUBBE SC: So there was no room, if I understand you correctly for the downside protection agreement?

MR VICTOR TIMOTHY SEANIE: I mean, there was, had it been negotiated on the day that it was on the day of the PMC meeting, there would have been room for a downside protection agreement, but as you see later on that the downside protection agreement was only signed in October 2018 about 10 months later.

In my view, the downside protection condition precedent as of also the case
10 with Vodacom Tanzania in a sense was proposed to justify the unjustifiable. Investors usually do not buy downside protection when the buy shares. I believe downside protection is as used in the cases of Ayo and Vodacom Tanzania, suggest that there was little confidence in the investment prospects. So the Ayo put option or downside protection was completely inadequate. A downside protection agreement was only entered into on 19 October 2018. That is between the PIC and a company representing Ayo. This downside protection agreement only protected PIC from a share price decline of R22, not the original R43 purchase price. This meant PIC was unprotected for losses of up to R21 per share. Equal to approximately R2.1 billion of PIC's initial investment R4.3 billion investment. It should be noted that the downside protection
20 period was only for 90 days from 19 October 2018, therefore PIC has been provided no long term protection. This is inconsistent with PIC stated long term investment philosophy and the PIC's intended holding period for the Ayo shares.

At day two of the PIC Commission of Inquiry Hearing Fidelis Madavo, the Executive Head of listed investment said, we are long term investors. We look at returns of a minimum of 2 to 3 years. I believe the downside protection accepted PIC

was inconsistent with sound principles of long term investing and did not provide our client with meaningful protection against capital loss in the long term. In my view, adequate downside protection would have been for an indefinite long term period. I voiced my objections to the key terms of the final downside protection agreement, but I was overruled.

ADV JANNIE LUBBE SC: Mr Commissioner, is this a convenient time to take the tea adjournment for 15 minutes?

COMMISSIONER: Do you not think we should rather finish his evidence relating to the statement and maybe take a break then or would you want to consult [Intervenues].

10 **ADV JANNIE LUBBE SC:** I am in your hands Mr Commissioner. We can proceed.

COMMISSIONER: Let us proceed.

MR VICTOR TIMOTHY SEANIE: Okay. Applying Ayo lessons to Sagarmatha. Following the Ayo debacle, I became highly concerned that my name was becoming associated with an equity report conclusion recommendation and other sections that I had no control of and did not agree with. When Sagarmatha approached us to participate in its listing on - In January 2018, I informed my Portfolio Manager Sunil Varghese and General Manager Lebogang Molebatsi, that I would no longer be signing equity reports, unless I could have more control over and have the final say on the key aspects of the equity report.

20 The conclusion, recommendation and valuation section. As a result on 5 April 2018, I compiled and signed an equity report recommending that PIC invest in Sagarmatha at a price of R7,06 less per share, compared to a listing price of R39,62 per share, set by Sagarmatha. I did this because I believe that Sagarmatha would not accept R7,06 and as a result probably abort its plans to list on the JSE. I believe Sagarmatha was worth closest to the bottom end of my valuation range of R4,39 per

share, if not less.

Despite this, on 6 April 2018, the PMC recommended the transaction for approval to the investment committee for IC, a PIC Board, sub-committee. On 10 April 2018, the IC stated that among other PIC management should follow the delegated authority and decide whether or not to invest in Sagarmatha. In the event that PIC management decide to invest the entire R3 billion to safeguard the listing of Sagarmatha, the PIC should obtain downside protection for at least 12 months or beyond the US listing.

10 It was not clear to me at the time whether IC approved a PIC investment in Sagarmatha at R7,06 or less per share or at R39,62 per share. Meeting minutes also do not indicated for which price IC granted it permission to management, however given that it was unlikely that Sagarmatha would accept the price of R7,06 or less. I was very surprised that PIC management still proceeded with attempting to conclude the Sagarmatha investment.

Based on the fact Management was moving ahead with the transaction, in my mind it seemed that PIC management was intent on making the investment at R39,62 per share. After IC approved the Sagarmatha transaction, PIC management then, well let me rephrase that. After IC gave management to decide whether or not to approve the Sagarmatha transaction, PIC management then proceeded to attempt the
20 completion of the investment.

I witnessed some of the negotiations with Iqbal Survé who offered some of these stakes in unlisted companies as collateral to back the downside protection agreement. It appeared to me that he could not muster adequate collateral. Negotiations continued, but I was not privy to the rest of the discussions. I only heard from a colleague that negotiations failed due to possible FSB rule violation, detected by

my colleague Tatenda Makhuti in our legal department, due to his FSB experience and therefore PIC did not invest.

Minutes of the IC meeting on 23 May 2018 did not mention any of the events or reasons in the above paragraph. These minutes state that the IC declined to approve the recommended transaction when the PIC would participate in a Sagarmatha listing at or below the PIC's best case estimate of Sagarmatha's intrinsic value of R7,06.

PIC's unfair suspension of myself. By unfairly suspending me and publishing my name, PIC has severely prejudiced me and caused me irreparable reputational damage in an industry where a trusted name is paramount. The PIC decision to publish my name for the public's consumption was taken when the allegation set out in my letter of suspension were not tested in a fair process, neither was I afforded the opportunity of a hearing before being suspended. It appears that the conclusion of guilty has been reached without me having an opportunity to state my side of the story. PIC has robbed me of my most valuable asset and source of livelihood.

According to PIC's website as of today, I am not aware of the PIC ever naming suspended employees in an official media release in the past. I believe this a prime example of employee victimisation at the PIC that this Commission was established to enquire into.

The third stated reason out of three for my suspension was that in an interview with members of the PIC internal audit department in December 2018 I allegedly was not candid when replying to questions related to Ayo asked of me and in so doing did not assist and/or impeded the ongoing investigation.

I would like to place it on record that this allegation is completely untrue. After Dr Dan Matjila resigned as CEO I assumed that the PIC environment would be

healthier and more open so I felt free to voice what I believed and understood to be the case in the Ayo matter therefore I answered all internal audit questions candidly and to the best of my ability.

I believe the reason in the above paragraph was fabricated to justify my unfair suspension.

On the 22 January 2019, the day I handed my suspension letter, I sent an email to PIC's Chris Pholwane, the executive head of human resources, in which I requested reasons for internal audits, allegation of my lack of candour during the investigation. As of this writing, I have not yet received the response.

10 **ADV JANNIE LUBBE SC:** Can I just again interrupt you here? When Mr Pholwane handed to you your suspension letter, what did he say to you?

MR VICTOR TIMOTHY SEANIE: Mr Pholwane read me some of my rights, some of the conditions of my suspension. He came across as being empathetic and he told me that he was sorry that this was happening to me and then he also said that there's a Commission of Inquiry into the PIC and, you know, I can approach the Commission and give them information.

Potential reasons, I believe I've been scapegoated. In my view I was scapegoated and suspended as a result of expressing independent views in the interest of our clients that run counter to those of some PIC executives and being suspected of
20 whistle blowing, which I did not do, and therefore, not part of the circle of executives intent on preventing incriminating information from leaking from the PIC.

Two incidents illustrate the above. Sometime between September and November 2018 I received a phone call during working hours from a gentleman named Njabula who said he worked at the National Prosecuting Authority, the NPA. He said that he was calling me to talk about a complaint I allegedly lodged a week before with

the NPA regarding irregular activities at the PIC.

I told him I had not made any submission to the NPA. Then he told me he was in possession of a document listing the aforementioned activities and the document contained my name as the purported sender.

I immediately reported the incident to my general manager, Lebogang Molebatse, executive head Fidelis Madavo and the then CEO Dr Daniel Matjila.

The CEO confirmed that the phone number I received the call from in fact belonged to the NPA and Njabula did work for the NPA.

10 A week later my line manager, portfolio manager, Sunil Varghese, called me into his office and asked me whether I really did not make a submission to the NPA? I replied that I had not submitted anything to the NPA. Then he said colleagues approached him asking, I'm paraphrasing, what's up with Victor? Is he leaking PIC information? I realised then that certain people in the organisation viewed me with suspicion.

On about the 5 December 2018 PIC management called me into our Mapungubwe meeting room to provide input to the PIC SCOPA report. When acting CEO Matshepo More asked me why I hadn't requested a PMC meeting to approve a due diligence into Ayo at an earlier stage I responded that I didn't believe Ayo had investment merit and therefore, I initially shelved working on it.

20 **ADV JANNIE LUBBE SC:** Before you continue, that is now before you were instructed by Mr Madavo to attend the Ayo meeting, is that the period that you didn't request a PMC meeting because it is on record that after that meeting you did request a PMC meeting.

MR VICTOR TIMOTHY SEANIE: Yes, ja. Ja, it's on record that I did request a PMC meeting and for that particular record, the source evidence are emails of what I

requested. At the time of this meeting with Matshepo this was December 2018 and Ayo events had happened a year ago, so the events weren't fresh in my head. Therefore my reply was not that I did request meetings but ja, I pretty much gave the dominant view that I had at the time which was that I did not believe Ayo was a good investment, ja.

Okay. So in response to that, Matshepo replied, and I'm paraphrasing, she said is there a different way we can word that for SCOPA? The group of managers then brainstormed ways of spinning a reason to present to SCOPA. I believe that moment revealed to management that I was too honest to be co-opted into what to me seemed to be a cover-up for the irregular decision made by the former CEO, Dr Dan
10 Matjila to invest in Ayo.

ADV JANNIE LUBBE SC: Mr Commissioner, that concludes the evidence from the statement. Obviously there will be questions by the Commission. We can proceed or if you want to adjourn we can do that.

CHAIRPERSON: You're okay, you don't want a convenient break, you're still alright?

MR VICTOR TIMOTHY SEANIE: I think I must continue, it's good.

CHAIRPERSON: Alright, my colleague, Ms Marcus will ask her questions now and then we'll take a ten minute break and then come back for my colleague Lediga to do so as well.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

20 **MS GILL MARCUS:** Thanks and just advise me – thank you for the opportunity and just advise me if you want to – I think maybe the best is to just go through them one by one and get the responses. There may be some overlapping.

So it starts with a question of was this the only investment that you report where Mr Modava asked that the said report should be favourable or had you had that intimation or instruction previously in relation to other projects?

MR VICTOR TIMOTHY SEANIE: Ja. So the Distel transaction, essentially that transaction – I can't remember exactly who said it but, you know, it was – my view was that the price was too high but then the pushback that I got, that in the end overruled me, was from those above me and those above me are only three people essentially that I received direct communication from on a day-to-day basis at work and those three are Fidelis Madavo, Lebogang Molebatse, Sunil Varghese. Those are the three who are the reviewers and those are the three that essentially dictate the final valuation, recommendation, conclusion.

So I can't remember exactly what happened with Distel because I think that
10 was in early 2017, it's two years ago now, in terms of who I received the information from but it could be any one of them.

MS GILL MARCUS: But when you receive such an instruction is it you who has to edit to change the views that you have or do they change the recommendations themselves?

MR VICTOR TIMOTHY SEANIE: It's myself.

MS GILL MARCUS: So – sorry?

MR VICTOR TIMOTHY SEANIE: Myself.

MS GILL MARCUS: So you're instructed what to then say in contradiction to what you had originally written?

20 **MR VICTOR TIMOTHY SEANIE:** Yes.

MS GILL MARCUS: Okay and you complied with that in both instances?

MR VICTOR TIMOTHY SEANIE: Ja, unfortunately – ja, I mean, I would tell them what my true view is but I'd be told this deal is going to go through.

MS GILL MARCUS: Okay and then in relation to paragraph 15 and 16, when you say there are changes made and you do not have control over the valuation conclusion and

recommendations.

MR VICTOR TIMOTHY SEANIE: Ja.

MS GILL MARCUS: Do you see them? Are they returned to you so that – although you may have made recommendation of valuation (a) is it then returned to you and before submission in any way to say this is what we're actually submitting or do you only see a final copy at the end of – so your report is (a) this can be A plus, A minus, whatever.

MR VICTOR TIMOTHY SEANIE: Ja.

MS GILL MARCUS: Do you have any sight of that before it goes to further
10 authorisation?

MR VICTOR TIMOTHY SEANIE: Yes, have sight. So the reviewer would take the report, read it, and he would mark, you know, what changes should be made on the report. So, as the compiler, I would then go back and make the changes and then pass it back to the reviewer for the reviewer to have a look again and then he would then say yes, okay, it's fine now. So I always have say.

MS GILL MARCUS: Okay but it is then that your view, your difference of view is not communicated to the committee or wherever it is being presented?

MR VICTOR TIMOTHY SEANIE: Yes, ja. Essentially...(intervention)

MS GILL MARCUS: It's only the final view.

20 **MR VICTOR TIMOTHY SEANIE:** Exactly, it's the final view that's communicated.

MS GILL MARCUS: Then the question for me would also be are you aware of any other instances of where the approach has been - if we went to paragraph 78 – I'm sorry, I'm skipping quite a bit, I think it's paragraph 78. I might go back elsewhere. This question of downside protection...(intervention)

MR VICTOR TIMOTHY SEANIE: Sorry, can I go back to the previous one?

MS GILL MARCUS: Yes.

MR VICTOR TIMOTHY SEANIE: To your question.

MS GILL MARCUS: That's para 15 and 16?

MR VICTOR TIMOTHY SEANIE: Ja.

MS GILL MARCUS: Ja.

MR VICTOR TIMOTHY SEANIE: Your question about the valuation, being told how to look at the company, how to value the company, I recall from the Sagarmatha period where this is the time when I was resolute in not signing a report in which the conclusion was against my personal view.

10 So, with Sagarmatha, we got their valuation in detail, we spreadsheets and we looked at the numbers and we got the assumptions and this time we communicated upwards to Fidelis and Dr Dan that we did not agree with the valuation at all. This is in 2018, with the benefit of the experience of what came before Ayo and we told Fidelis that no, we are not going to stand for this and what happened, the message got passed down.

Fidelis told us that Dr Dan says that you guys do not understand this company, Sagarmatha. So we were supposed to look at it through different eyes but in terms of investments fundamentals, it didn't make sense.

MS GILL MARCUS: Okay, just to continue then. in terms of the three weeks, if we
20 want to paragraph 34, in terms of the three weeks and the timelines that were there and all the measures that were taken within the signing offs and so on, in tat three weeks given that you had attempted to do at least a desktop due diligence, what concerns did you raise in your report about the lack of time to do a proper due diligence? Was that part of your concerns about saying Ayo is not a good investment or that we need more time to do a proper due diligence and therefore they should not proceed until that is

done?

MR VICTOR TIMOTHY SEANIE: Ja. In terms of times, it didn't mention anything about times in the report but we did mention the risks, so risk of the investment that I mentioned in the report were such as there's risk that Ayo overpays for the acquisitions that it plans to make and destroy shareholder value. There's a risk that their additional revenues that they forecast would not materialise, I said management's forward looking estimates were very optimistic. Ayo strategy depends heavily on its empowerment status and I said that empowerment credentials can be replicated by its competitors such as EOH and so on.

10 So we highlighted the risk in the report. There was – ja, in terms of – ja, I mean risk-wise we pretty much said what all the risks were, ja.

I think sometimes you know when an investment is bad, you don't need weeks to know that.

MS GILL MARCUS: Ja.

MR VICTOR TIMOTHY SEANIE: You can tell in a day or so. So I think the time pressure was less of an issue in knowing whether or not this was a good investment, is just seeing the risks.

MS GILL MARCUS: Thanks. In terms of your para 50 and the message from Mr Salie, is the interpretation correct that the rush of the timeline and the haste with which Ayo
20 deal was dealt with was solely in order to actually submit for a tender with – to get the BT deal and that was the time that there was the pressure and therefore was that deal already also a foregone conclusion?

MR VICTOR TIMOTHY SEANIE: The deal with Sasol?

MS GILL MARCUS: With BT, ja Sasol.

MR VICTOR TIMOTHY SEANIE: BT?

MS GILL MARCUS: Ja.

MR VICTOR TIMOTHY SEANIE: Okay. The BT deal was not a foregone conclusion, that had to be sanctioned by BT Group in the UK and later on BT actually got nervous when it heard all the negative news stories about Ayo in the media and it decided not to go through with that agreement. So the transaction as to date has not happened.

MS GILL MARCUS: Okay.

MR VICTOR TIMOTHY SEANIE: On the Sasol, deal, this came down to negotiation between Ayo and Sasol in terms of when, by when did Ayo need to have its BE credentials and have listed etcetera, to have the organisation ready to win the tender
10 from Sasol. So we were not privy to the discussions between Sasol and Ayo.

MS GILL MARCUS: But what I want to understand was that both of these deals, from the Ayo's side, were in anticipation of the – the listing would qualify them to be able to tender for that but they were not necessarily already in a sense a tacit approval that if you have done this you are likely to get the tender.

MR VICTOR TIMOTHY SEANIE: Are you saying the tender was not conditional on the listing?

MS GILL MARCUS: No, I'm saying that it was – that was the assumption that it was conditional on the listing.

MR VICTOR TIMOTHY SEANIE: Oh, I see.

20 **MS GILL MARCUS**: The awarding of the tender would require you to have all of these things I place.

MR VICTOR TIMOTHY SEANIE: H'm.

MS GILL MARCUS: Without them, the tender for BT or Sasol would not materialise.

MR VICTOR TIMOTHY SEANIE: Okay. So in order to execute the B transaction Ayo needed what they said was about a billion rand and so if they had not listed and raised

the R4.3 billion from the PIC they would not have been able to acquire BT.

MS GILL MARCUS: Okay.

MR VICTOR TIMOTHY SEANIE: One. On the Sasol, they were going to spend money on setting up Ayo to commence the Sasol agreement, so they would have needed some money for that but they did not need anything more than 500 million, for example. So they didn't need the whole R 4.3 billion to execute that transaction. In terms of – a key reason they won the Sasol is because they had the BEE credentials and before the PIC became a shareholder they already had the strong BEE credentials, so that aspect wasn't required. So it more the capital that was required to do it.

10 **MS GILL MARCUS**: And therefore the reason for rushing the Ayo deal and providing this was for them to participate in both those deals.

MR VICTOR TIMOTHY SEANIE: Yes. However, I mean, my view, those things could have been delayed.

MS GILL MARCUS: Sure. Sorry and then if I could move to 65 and again I think you probably answered this earlier, my question is, who drafted and changed the conclusions and recommendations because in accordance with what you deduced to be Dr Dan's wishes, were these dictated to you and you changed them or did they change them?

20 **MR VICTOR TIMOTHY SEANIE**: Yes it was dictated and instructed to me and I changed the physical document.

MS GILL MARCUS: And do you – is that dictated and instructed on your original document? Do you have documentation with written instructions of what to change or changed on the text?

MR VICTOR TIMOTHY SEANIE: No, the instructions are passed verbally.

MS GILL MARCUS: Verbally?

MR VICTOR TIMOTHY SEANIE: Ja.

MS GILL MARCUS: So there's only verbal instructions about what to do?

MR VICTOR TIMOTHY SEANIE: Yes.

MS GILL MARCUS: Okay. If we move to 78, are you aware in terms of any other instances where downside protection by the PIC was not done appropriately because here it's about what – the duration as well as when it commenced as you've said in para 77.

MR VICTOR TIMOTHY SEANIE: H'm.

MS GILL MARCUS: The protection is only for a much lower level of loss.

10 **MR VICTOR TIMOTHY SEANIE:** Ja.

MS GILL MARCUS: You already would have lost R21. And are there any other instances where the downside protection is for much shorter times, inappropriately matched to the investing times or for the lost protection itself?

MR VICTOR TIMOTHY SEANIE: Okay. The only other instance that I recall there being a downside protection-like arrangement between the PIC and the counterparty was with Vodacom Tanzania. The period there, I speak under correction was about three years and I mean there because we intend to be a long term shareholder, beyond three years, in that respect I felt that was inappropriate but in terms of the timing of negotiating it, I believe it was negotiated and completed and agreed to before the PIC
20 invested in Vodacom Tanzania, so it was proper in that respect.

MS GILL MARCUS: If I look at 84, the question of 84.1:

“The PIC management should follow their delegated authority and decide whether or not to invest in Sagarmatha.”

Is that a frequent response from the investment committee to say you've presented something but you decide rather than the IC actually examining it and giving view on it?

Is it something that is frequently just referred back?

MR VICTOR TIMOTHY SEANIE: Ja, on this one I won't know be this was the very first time I was in this instance in an IC meeting, so I don't know the record.

MS GILL MARCUS: You don't know if that was done quite frequently.

MR VICTOR TIMOTHY SEANIE: Ja.

MS GILL MARCUS: Do you know what in '86 what the FS rule, FSB rule violation was?

MR VICTOR TIMOTHY SEANIE: Ja, unfortunately I don't know that one, ja, because at the time that it happened I was out of the office at that point, ja.

10 **MS GILL MARCUS**: But perhaps, Adv Lubbe, this could be related back to Dr Manning's evidence.

ADV JANNIE LUBBE SC: We'll follow that up.

MS GILL MARCUS: About this particular investment the comments you made about that the management often – there's differences and so on, if you remember that part. I think it would be useful to look at that.

ADV JANNIE LUBBE SC: It's noted, thank you.

MR VICTOR TIMOTHY SEANIE: Ja, I definitely think that's worth following up with the PIC to find out exactly what went wrong because we also know that the JSE also at some point prevented the listing, so I don't know which one would have come first, PIC
20 saying no, we can't do this deal because of the FSB potential rule violation or the JSE putting an end to it.

MS GILL MARCUS: But can we ask from your side, Adv Lubbe, that that gets looked into and we get a proper report on what actually happened there?

ADV JANNIE LUBBE SC: We'll do that.

MS GILL MARCUS: Because I think there's a bit of a contradiction or a difference of

information in that sense and I think your – sorry, I just want to look here – when in paragraph 95 when you say:

“The CO confirmed that the phone number I received the call from in fact belonged to the NPA.”

Was that something that Dr Matjila had to hand or did he have to look it up or make enquiries or could he respond to you straightaway?

MR VICTOR TIMOTHY SEANIE: Ja, he looked it up and he had in his possession correspondence with the Njabula gentleman and in the correspondence was – I think his name is emailed and his telephone number and Dr Dan showed me that and it
10 matched the phone number from which I received the phone call.

MS GILL MARCUS: Thanks, Judge, that’s what I have to say. Thank you.

MR VICTOR TIMOTHY SEANIE: Thank you.

CHAIRPERSON: I’m sorry, we – you know, I said we will adjourn but my colleague is now ready and I’d like him to proceed.

MR EMMANUEL LEDIGA: Thank you. Ms Marcus has asked quite a number of questions which I had so I’m going to be short. Just a couple of clarifications first and then we’ll go to questions.

In terms of meetings within your committees, you know, you do the reports and all that and your senior managers look at the recommendations and everything.
20 Don’t you think that it’s a normal process within this kind of a company that people discuss the recommendation and they decide on it, I mean it’s not one person deciding that.

MR VICTOR TIMOTHY SEANIE: Yes, it is normal. So at the PIC it’s unlike all other asset managers in the private sector. Working there, my job has two components. One is doing run of the mill asset management work, researching as an analyst, providing

recommendations and discussing it with my team. So my team being the listed equities team and in that, that forum, we debate. All views are heard and in the debate your view by and large passes. Why? Because that is in the confines of the listed equities team and it really ends at the general manager level. So it's general manager down, so that's regular asset management and opposing views are accepted and they're debated and they go on record.

Then there's a second component of my job which is working on individual deals, they end up being very big deals in many cases. You have the Ayo 4.3 billion, there was Distel of 10 billion and Vodacom Tanzania near a billion and so on. So those
10 are massive individual deals, often regarding IPOs and so on.

So those deals go to PMC. So it's in the PMC part where the end decision-making authority really rests with the executives and that's really the CEO and the executive head of our department meaning these are two individuals who don't attend our day-to-day run-of-the-mill general listed equities meetings because we debate among ourselves but when he gets to that level where Dr Dan had to make the decision, Fidelis had to make the decision, there – and we go then to the PMC meetings, that's where essentially the views are dictated by Dr Dan and Fidelis.

Our opposing views basically are not allowed, they're overruled because Dr Dan's making the decision, Fidelis is making the decision, whatever, everybody from
20 Lebogang, Sunil and myself have to say, gets overruled.

MR EMMANUEL LEDIGA: So you could well have some different views but in the end somebody has to got to make a call.

MR VICTOR TIMOTHY SEANIE: Yes.

MR EMMANUEL LEDIGA: The management has got to make a call.

MR VICTOR TIMOTHY SEANIE: Yes.

MR EMMANUEL LEDIGA: And it's just a normal process normally within these types of companies?

MR VICTOR TIMOTHY SEANIE: Ja.

MR EMMANUEL LEDIGA: Is that correct?

MR VICTOR TIMOTHY SEANIE: Ja, in the end – in the end – in asset management space you have what they called a house view and, you know, that house view is the view at the end of the day that prevails and it's the view that's communicated outside of that management company to the outside, so – and this happens at all asset management companies, the view that prevails in the end is that of the portfolio manager and the CIO. Analysts may have their own view that differ with that of the views of the CEO and portfolio manager.

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So in that regard it's similar at the PIC, it's just that we feel that our CIO, which is – was Dr Dan, as taking these decisions that we didn't feel was in the best interest of our clients.

MR EMMANUEL LEDIGA: And if risk department have a problem with say the valuation, I mean, do they have any powers to really be strong about it and say really we don't agree with this valuation?

MR VICTOR TIMOTHY SEANIE: So the risk of the department sits in the same position that we sit in because we are on about the same level and we then report up through the executive head then of risk and into the CEO. So the analysts in the risk department, like myself, we have our own views and those views get snuffed out by the time it gets to the executive level.

20

I mean I know of a colleague, for example, in risk and I've known over time that the risk department has been one of the departments that has been outspoken against a lot of these deals, such as Ayo.

For me it was a conversation with the executive head of risk that alerted me to bigger scheme of things around Ayo and the risks and I have a colleague in the risk department who very upstanding gentleman, Chivango(?) Ndatso, he's a friend and a colleague and he made recommendations against many transaction and he gets to see more transactions than I do because his risk department services all of the PIC. He made such unpopular decisions at the PIC that he was removed from his position and he's now in a position where he cannot be an obstacle to decision-making in the PIC.

MR EMMANUEL LEDIGA: Next one, are you part of the department that manages 200 billion active management or it's broader.

10 **MR VICTOR TIMOTHY SEANIE:** Yes, I'm part of the active management section, yes.

MR EMMANUEL LEDIGA: And you mainly do normal management and book builds and IPOs and all that? The normal part and the listings and all that?

MR VICTOR TIMOTHY SEANIE: Ja. So as you say IPOs would fall in the abnormal part.

MR EMMANUEL LEDIGA: Yes.

MR VICTOR TIMOTHY SEANIE: Ja.

MR EMMANUEL LEDIGA: But there is the normal part which happens, you know, all the time.

20 **MR VICTOR TIMOTHY SEANIE:** Yes, there's the normal part – the normal part is basically buying and selling shares that are already listed on the stock market, that would be the normal part.

MR EMMANUEL LEDIGA: Alright, ja I get it. Concentration risk, throughout the days we have talked about three companies, Ayo, Sagarmatha and the other ones. Was there a time when the PIC people said that there's too much exposure to one entity or, you know, one person?

MR VICTOR TIMOTHY SEANIE: Yes, ja, I mean that was the high exposure to companies related to Iqbal Survé so from the side – on the unlisted side of the business Independent News and Media and then Ayo came in and then Sagarmatha was possibly going to be coming in as well. So from that point of view – ja, there was the concern about that concentration risk.

MR EMMANUEL LEDIGA: Taking another tack, how do transactions come to the PIC maybe, you know, from your part, I mean, you know, according to you, how do they come to the PIC, is it a bottom up process, is it a top down process or even the middle process or so, you know? Am I clear?

10 **MR VICTOR TIMOTHY SEANIE:** Brand new transactions?

MR EMMANUEL LEDIGA: Ja, brand new trans – IPOs.

MR VICTOR TIMOTHY SEANIE: Yes.

MR EMMANUEL LEDIGA: Book bills and the others.

MR VICTOR TIMOTHY SEANIE: Ja, so brand new companies who come into IPO, those – those would be communicated by whoever is the person behind the new company and they'll get in touch with the PIC. I don't know who they get in touch with, the first time but I know they get in touch with the PIC and often it's directly with Dr Dan or directly with Fidelis, I mean this is what I see and what I understand to be the case because then I would be informed of these deals either directly by a Fidelis or Fidelis
20 would inform his second-in-command which is the general manager of listed equities, Lebogang, and Lebogang would then inform us. It could even only reach me via my direct manager, Sunil, and then I would not know where it came from in the very first place.

Often I'd have meetings with companies where Lebogang would call me and say Victor, the company is here in the building and they would like to have an

introductory meeting with us, please come and meet them and I don't know how they got in touch with the PIC because essentially the deals are brought in and then they are allocated to the analysts like myself to start working on them.

MR EMMANUEL LEDIGA: Roughly percentage wise what can you say in terms of how many deals are done sort of top down, and versus bottom up where people just phone in and say I would like to speak to Listed Securities, in terms of percentage wise roughly. Are you bulk of the deal done through the Executives or through a bottom-up process.

MR VICTOR TIMOTHY SEANIE: Oh bulk of new deals coming in?

10 **MR EMMANUEL LEDIGA:** Ja, new deals yes I'm talking about.

MR VICTOR TIMOTHY SEANIE: Ja, from what I see the bulk of the deals come in from the top down. I wouldn't be able to quantify it exactly though.

MR EMMANUEL LEDIGA: Alright. In terms of pushing these transactions and all that, why do you think the Ayo deal was pushed so hard maybe or alleged to have been pushed so hard by certain people. Is there any thinking around there?

MR VICTOR TIMOTHY SEANIE: Ja, I mean I would just have to – you're asking me what I think so you're asking me for an opinion as opposed to fact, so in my opinion as I mentioned in my statement I think it seems to be that there is that relationship between Doc Iqbal Survé and Dr Daniel Matjila whereby Doctor Dan always takes a favourable
20 view and he is willing to help Iqbal Survé to raise money from the PIC in order to do deals, in order to raise money, and one version which as a plausible version is that you know Iqbal Survé has this big loan, I think in excess of a billion Rand, that he owes to the PIC, and he is struggling to pay it, because it's underpinned by a loss-making business, and he is trying to find ways to get money out of the PIC and inventing and coming up with different business ideas in order to do that, and in order to do that he

has to extract a large sum so he can pay off the debt on the other side and for – that's to me what the case was with Sagarmatha because the actual entity that was loss-making, the Independent News & Media was inside the Sagarmatha entity, so if we – if the PIC invested, gave money to Sagarmatha, it would have solved many of the debt problems that Independent News and Media had directly. So it was a bail-out, I saw it.

MR EMMANUEL LEDIGA: Coming back to our TOR's, Terms of References, you mentioned that the whistle blowing line is not an effective line or somehow you know you were not happy with that line. The people from one section here came and said there is a line happening, they get complaints and they are handled, can you give us
10 some more views on why do you say that line is not working well?

MR VICTOR TIMOTHY SEANIE: Yes, my view on probably most if not all whistleblower hot-lines is informed by what I see happening in society at large, you know whistleblowers being victimised and not being protected, first and foremost, and then I look at what has been happening at the PIC, including what has just happened to myself, I didn't even blow the whistle and look what happened to me. Ja, I just see all the suspensions at the PIC, of Executives, of Managers and all of those things, ja, and then after an IT Executive for example is suspended and they do these forensic investigations they are just trying to find whistleblowers and track them down and not do anything good to them, so judging by the PIC's past actions I did not trust the
20 whistleblower program.

MR EMMANUEL LEDIGA: People are victimised within the PIC and I mean you mentioned yourself you mentioned you know maybe one or two more. In what way, I mean in what way are people victimised? Am I making sense?

MR VICTOR TIMOTHY SEANIE: Yes I mean singled out for unfair treatment, suspending them and then thereafter the suspension naturally when questioned about

suspension the media finds out that there has been a suspension and then naturally you mention the suspension and you do reputational harm to those people. Victimized, for example the Company Secretary she was suspected of leaking documents outside of the company and I don't know whether she did or not but you know she was suspended, and it's bad-mouthing people essentially, that's what it amounts to, which doesn't help in this industry.

MR EMMANUEL LEDIGA: In terms of the sort of reasons, the three reasons that you were given you know for suspending you, you are contesting them isn't it? I mean you mentioned that you didn't – you were not guilty or so in terms of that DD process and all
10 that, so are you – I mean have they accepted your reasons in terms of the three points you made?

MR VICTOR TIMOTHY SEANIE: Ja, oh, so the three points.

MR EMMANUEL LEDIGA: There are three reasons ...(intervention)

MR VICTOR TIMOTHY SEANIE: Yes, the three reasons, the first reason
...(intervention)

MR EMMANUEL LEDIGA: You were suspended and you have made counterpoints to those, have they accepted those or are they contesting those answers?

MR VICTOR TIMOTHY SEANIE: So I will take these, I will answer them and refer to two stages of these reasons for suspending me.

20 **MR EMMANUEL LEDIGA:** Yes.

MR VICTOR TIMOTHY SEANIE: The first time these reasons were brought up was in December 2018, during the Internal Audit Investigations at the PIC, and during those investigations all of us involved in the Ayo transactions were questioned and I was asked about the two reasons, one, why did you initiate due diligence with Ayo before PMC approval and number two, why did you not mention that the subscription

agreement was signed at the IOPMC meeting. Internal Audit asked me the question and I told them why, the reasons what I set out here, I thought it was the prudent thing to do as an investor, to do the research with a very short timeframe. I requested meetings but meetings were not forthcoming so we could not just sit and do nothing with regards to the work. The second part is about the subscription agreement not being mentioned in the meeting, going into the meeting I mentioned that I was aware that the PMC members were generally informed about the fact that the subscription agreement was signed and so I told them I did not see anything wrong with that, you know especially with the due diligence request. We did not spend money on the due
10 diligence, you know. My mother said son as long as you do not steal money it's fine you know. There was nothing wrong with that, the due diligence was going to be approved anyway. I told them those are the reasons, and they've used those reasons still, they've used the fact that I had done that as reasons for my suspension, so clearly they did not accept my reasons.

On the part where I was not candid, I actually sent an email to the Executive Head of Research and asked him for the reasons why they said I wasn't candid in answering their questions. They still haven't gotten back to me, it's been a week, more than a week since I've sent that message. Oh, and now I have to follow the process of engaging them, their process is still in the beginning phases of going to them and
20 getting my, trying to get my suspension overturned, ja so we have not yet had word from them, but my representatives, my legal representatives are still working on that.

MR EMMANUEL LEDIGA: Ja, so look it appears that the culture there is, there are some issues with the culture there. I mean you mentioned a lot of things. How would you characterise the culture you know at the PIC currently?

MR VICTOR TIMOTHY SEANIE: I mean there is positive there, you know people have

good social inter-personal relationships, I enjoyed that about the environment. You know the PIC does some good as far as ESG is concerned, affecting positive change in companies, investing in areas that develop the country and also pushing the transformation agenda, those are positives and we act on that. But, ja, but I just think that sometimes rational investment decisions are not taken on a large scale and ja, it would seem that the people in charge are not informed by the principle of putting our clients interests ahead of their own interests, I think that aspect of the culture is what's so detrimental to the PIC.

MR EMMANUEL LEDIGA: Thank you, thank you for your assistance, thank you very
10 much.

CHAIRPERSON: I just have one question, paragraph 72 of your, you know the allegation that you failed to disclose that the subscription agreement had already been signed, would that document not have been in front of the people at the PMC meeting? If so was it unsigned, the copies that is.

MR VICTOR TIMOTHY SEANIE: Ja, good question. I'm not sure whether the signed subscription agreement was there with them, ja, I'm not sure.

ADV JANNIE LUBBE SC: Can I follow up on that Mr Commissioner?

MS GILL MARCUS: Can I just ask an additional question before you do. If I understood this correctly the Chair of that meeting was Dr Matjila?

20 **MR VICTOR TIMOTHY SEANIE:** No, I think the Chair was Matshepo More.

MS GILL MARCUS: More, who had signed and released the funding?

MR VICTOR TIMOTHY SEANIE: Yes.

MS GILL MARCUS: Already?

MR VICTOR TIMOTHY SEANIE: Yes, the day before yes.

MS GILL MARCUS: And therefore there can't be a withholding of, or the question from

me withholding of something that has already been given effect to begs the question about whether people knew, but therefore the question would have been as a Chair of a meeting what is the status of the business on the table, and to me the question is did the Chair outline the status of the business that had to be addressed because I would have assumed that's why you called the meeting.

MR VICTOR TIMOTHY SEANIE: Mmm.

MS GILL MARCUS: So there is a bit of ambiguity about what everybody knew, or the assumptions about what they knew as to why they were there, and so perhaps when you're looking at that clarity just clarify what the meeting was called for, because it
10 should have set that out I would have thought.

MR VICTOR TIMOTHY SEANIE: Ja.

ADV JANNIE LUBBE SC: Mr Commissioner that's exactly the point I wish to clarify. There cannot be any doubt, according to the evidence of this witness that the two most important people at the meeting, the Chairperson who was the CFO, and Dr Matjila, the CEO, at the meeting were well informed of what happened and it is really disingenuous of the PIC now accusing the witness of not informing ...(intervention)

CHAIRPERSON: You're speaking a bit soft, or are away from the mic.

ADV JANNIE LUBBE SC: I'm sorry, the point I'm making ...(intervention)

CHAIRPERSON: Can you start from the beginning, yes.

20 **ADV JANNIE LUBBE SC:** The point I'm making it was also the evidence of the internal auditor that the two most important people at the meeting, the Chairperson, the CFO at the time, and Dr Matjila, the CEO, they were both well aware of what happened and what the information was that was critical to this meeting, and it is disingenuous now accusing this witness, who was as he has testified the smallest role player in that meeting, of not providing that information to the meeting. I think that's the point he's

making.

MR EMMANUEL LEDIGA: Thank you. I cannot just leave this because it has come up you know most times, and it is a separate matter but since you work there you could help us. The bonus issue you know sort of has been a big issue and it is within our Terms of Reference. Are you able to tell us you know what problems were within the bonus issue in terms of say the bonus pool portion and in terms of the allocations to various staff, people there within the PIC. Do you have any views about the bonus problem?

MR VICTOR TIMOTHY SEANIE: Ja, so I mean from the point of the staff at the PIC
10 the biggest grievance is the fact that the bonus pool, the cap on bonuses is on a declining path, so bonuses as a percentage of your annual guarantee pay, I mean that's the biggest unhappiness that staff have had. I know that from 2017 to 2018 there was a decrease in the bonus CAP, but there's no transparency in terms of how your bonus is decided. Even going back to the balance scorecard the way it's drawn up it doesn't reflect the nature of our activities at the PIC, so it does not reward you for working on individual deals, it only focuses on your day to day run of the mill asset management work and doesn't take into account the others.

So ja, staff are unhappy about how the balance scorecard is drawn up and how the scores are calculated and also the size of the bonus pool.

20 **MR EMMANUEL LEDIGA:** Do you *per se* have a problem with the balance scorecard or you want to keep the balance scorecard but tweak the numbers?

MR VICTOR TIMOTHY SEANIE: I would like the balance scorecard to reflect our daily work activities and take everything we do at the PIC to generate returns for our clients into account, because a lot of what we do is not reflected in the balance scorecard.

MR EMMANUEL LEDIGA: I see.

MR VICTOR TIMOTHY SEANIE: So you are distracted with these deals, like Ayo or Sagarmatha etcetera, but then you're still expected to do the run of the mill work of asset management, and it doesn't take account of the other work that you're doing, the deals.

MR EMMANUEL LEDIGA: Okay, alright, thanks.

CHAIRPERSON: Is that it for the day?

ADV JANNIE LUBBE SC: Thank you Mr Commissioner, that is the business for the day, and as I understand we, the Commission, will adjourn till I think it's the last week in February.

- 10 **CHAIRPERSON:** Yes just for the public to know that we will – it is our last day today, not last day of the Commission sittings, but this month and we are going to adjourn until the 25th of February. If there is any change to that date that will be made known to the media and the public on our website as well, but we are hopeful that we will resume on the 25th of February. The reason for anybody who is interested is that I am not available because of prior arrangements, that's the reason for us to adjourn until then. Mr Seanie on behalf of the Commission I want to thank you sincerely for making yourself available and coming forward to give us the evidence that you have given us today.

- 20 I trust that you coming here to testify will encourage other people who do want to testify but who are merely afraid for whatever reason to come forward and I hope they will come forward. We have means, the Commission has means to protect people who don't want their identities to be disclosed and so your coming here I'm sure has encouraged other people to come forward.

Thank you very much on behalf of the Commission.

MR VICTOR TIMOTHY SEANIE: You are welcome Commissioner and thank you for

the opportunity.

CHAIRPERSON: Yes, we will now adjourn until the 25th of February.

INQUIRY ADJOURNS TO 25 FEBRUARY 2019