

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

**HELD AT**

**TSHWANE, PRETORIA**

10

**27 FEBRUARY 2019**

**DAY 9**

20

**PROCEEDINGS HELD ON 27 FEBRUARY 2019**

**CHAIRPERSON:** Good morning.

**ADV JANNIE LUBBE SC:** Good morning Mr Commissioner can we have the red button again please.

**CHAIRPERSON:** Good morning everybody. Yes Adv Lubbe?

**ADV JANNIE LUBBE SC:** Good morning Mr Commissioner and members we're ready to proceed. Before I call my next witness I have placed an extract of the draft minutes of the Board held on the 1<sup>st</sup> February before the Commission and I wish to place on record I had a consultation with the Chairman of the Board Deputy Finance Minister Mr  
10 Gungubele this morning and we have discussed this and he has confirmed to me and asked me to convey to the Commission that what is stated in 5.7 in the extracts from the minutes is indeed correct. It reads:

“The Chairman, after having excused himself from the meeting to take a call from the Minister of Finance reported that the Minister requested that the Board should do the honourable thing and tender their resignation in order for the Minister to reinstitute the Board failing which the Minister would not have a choice but to follow his discretion.”

He agrees that is the correct version.

20 **CHAIRPERSON:** Well do I understand you correctly that the Deputy Minister now says yes that is correct?

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

**CHAIRPERSON:** Alright thank you.

**ADV JANNIE LUBBE SC:** Mrs Beswick is the next witness she's ready to take the prescribed oath.

**CHAIRPERSON**: Morning Ms Beswick.

**MS SANDRA BESWICK**: Morning.

**CHAIRPERSON**: Are those your full names, Sandra Beswick?

**MS SANDRA BESWICK**: That's right, yes.

**CHAIRPERSON**: Right have you got any objection to taking the prescribed oath?

**MS SANDRA BESWICK**: No.

**CHAIRPERSON**: If not, do you swear then that the evidence you're about to give will be the truth, the whole truth, and nothing but the truth ... (intervention)

**MS SANDRA BESWICK**: Yes I do.

10 **CHAIRPERSON**: Say so help me God.

**MS SANDRA BESWICK**: Oh so help me God, yes I do.

**CHAIRPERSON**: Thank you. Yes Mr Lubbe?

**ADV JANNIE LUBBE SC**: Thank you Mr Commissioner. Mrs Beswick you have prepared a written statement for the Commission it's been handed to the Commission. Can you start with paragraph 1 and just explain and tell the Commission more about your background?

20 **MS SANDRA BESWICK**: I am a – I have a BCom Honours Degree and I was an employee of ABSA Bank for many years, I'm an experienced – I was an experienced banker until I left in 2009. I am now a senior business rescue practitioner and I have my own business that I conduct the business rescue from. I will go back; I will go to the statement now.

I was appointed by the PIC as an alternate independent sector industry expert on 25<sup>th</sup> September 2013 as a member of the Priority Sector and Small and Medium Enterprise Fund Investment Panel, sounds like a real mouthful, in the unlisted investment segment. This panel merged with the Private Equity and Priority Sectors

sub and I continue to serve as an independent expert until my Board appointment on the 1<sup>st</sup> December 2015 by the Finance Minister Mr Nhlanhla Nene.

**ADV JANNIE LUBBE SC:** Can I interrupt and I apologise again I forgot these things sometimes, Mrs Beswick is represented by her attorney who is present here Mr Alex Elliot if he can just place himself on record.

**CHAIRPERSON:** Mr Elliot?

**MR ALEX ELLIOT:** Thank you Justice my name is Alex Elliot from the firm Hogan Lovells and I'm representing Ms Beswick, the witness today.

**CHAIRPERSON:** Thank you.

10 **ADV JANNIE LUBBE SC:** Thank you can you please then continue?

**MS SANDRA BESWICK:** My first three years ... (intervention)

**CHAIRPERSON:** Sorry, sorry I've got it in my mind because I've come across the firm Lovells, is there another name, you said something Lovells?

**MR ALEX ELLIOT:** Hogan Lovells, H-O-G-A-N.

**CHAIRPERSON:** H-O?

**MR ALEX ELLIOT:** G-A-N.

**CHAIRPERSON:** Hogan.

20 **MS SANDRA BESWICK:** My first three year term terminated the end of November 2018 however it was extended for a further six months by the current Finance Minister Mr Tito Mboweni in December. The PIC had three chairpersons during my tenure as a Board member namely Mr Mcebisi Jonas, Mr Sfiso Buthelezi and Mr Mondli Gungubele in the capacities as Deputy Finance Ministers. I am currently a member of the following sub-committees of the Board; I am the Chairperson of the Information Communications and Technology Governance Committee, the Audit and Risk Committee, the Human Resources Remuneration Committee, Director Affairs Committee and the Private Equity

Fund Investment Panel as well as the Social and Economic Infrastructure Investment Panel.

The period between the 1<sup>st</sup> December 2015 to March 2017 under the Chairperson of Mr Jonas, during the tenure and leadership of Mr Jonas the Board meetings were convened and scheduled at 9 a.m. and were conducted in a respectful and competent manner. Documents were published timeously to all Board members allowing Board members sufficient time to review them before the scheduled meetings. Special Board meetings were only convened where necessary mainly to approve submissions to National Treasury in order to meet deadlines. The relationship between Board members was affable and cordial despite the occurrence of robust debates in reaching agreement of the matters at hand. As far as I am aware there was no leakage of information during this period. The firing of Finance Minister Mr Pravin Gordhan and Deputy Finance Minister Mr Jonas at the end of March 2017 was a cause of great concern for me because the perceived risk of potential State capture of the PIC increased significantly.

**ADV JANNIE LUBBE SC:** Can you just briefly elaborate on that, why do you say that?

**MS SANDRA BESWICK:** Because it was perceived that with the history of Mr Buthelezi and Mr Gigaba that there was potential for the PIC for State capture of the PIC also at the AGM where Mr Gordhan was present as the shareholder representative he warned us of State capture and asked us to be vigilant and diligent in our duties to protect the PIC.

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

**MS SANDRA BESWICK:** The period between the 1<sup>st</sup> April 2017 to February 2018 the Chairperson was Mr Sfiso Buthelezi. As I said the appoint of Mr Malusi Gigaba as Finance Minister and Mr Sfiso Buthelezi as his Deputy exacerbated my fears of State

capture of the organisation and the importance of maintain my fiduciary duty.

**MR EMMANUEL LEDIGA:** Just a question, just a quick question. I just wanted to check you said the Minister warned you, Gordhan, was it in a meeting or ja just explain a bit there please?

**MS SANDRA BESWICK:** It was at the AGM prior to their removal and a previous occasion also he warned us of State capture and he did implore us to protect the PIC.

**ADV JANNIE LUBBE SC:** Can I, sorry interrupt you, in your statement you briefly deal with the appointment of Minister Gigaba and the suspension of Board meetings, you were present when Dr Manning testified, you heard her version, you're not dealing  
10 extensively with that. All I want to know do you agree with Dr Manning testified about this meeting with Minister Gigaba and the Board?

**MS SANDRA BESWICK:** Yes I do, a 100%.

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

**MS SANDRA BESWICK:** Can I continue? All Board and Committee meetings were suspended on instructions of Mr Gigaba until he had familiarised himself with the PIC. I considered this to be highly irregular from a governance perspective because a company cannot operate optimally without a functioning board. The first Board meeting was convened after three months on the 28<sup>th</sup> July 2017. The PIC at that time was in the media spotlight with continual speculation and allegations of mismanagement,  
20 tyrannical behaviour and impropriety perpetrated by the CEO and CFO. It was also reported that the PIC was a target for State capture which seemed plausible for the following reasons; crisis management was the order of the day which attributed to the unusual number of special board meetings been convened. The Board was cited for lack of good governance and was accused of protecting the Executive.

**ADV JANNIE LUBBE SC:** Who made those accusations?

**MS SANDRA BESWICK:** It was mostly in the media and as far as I can remember it was mostly in the media.

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

**MS SANDRA BESWICK:** E-mails disguised, oh sorry also those e-mails that we received from Mr James Nogu's e-mails. E-mails disguised as whistle blowing reports from a certain Mr James Nogu were distributed to a wide-ranging list of stakeholders which ignited further media and public attention. Highly confidential documents including Board papers, transaction reports and correspondence were leaked to the media and other external parties. Board meetings being highly contentious and strong  
10 divisions of mistrust between Board members became apparent. At the special Board meeting of the 15<sup>th</sup> September the decision to commission an investigation by the Head of Internal Audit instead of an internal investigator as per the original decision was taken when the Board had satisfied itself that the documents presented of the approval of the MST transaction reflected that PIC process was duly followed.

**ADV JANNIE LUBBE SC:** Can you, sorry to interrupt you again, can you just go a bit slower and give more detail about this, as I understand it and from previous witnesses there was an original decision to go for an external forensic investigation, that was later changed is that correct?

**MS SANDRA BESWICK:** That is correct it was later changed.

20 **ADV JANNIE LUBBE SC:** Why, why was it changed?

**MS SANDRA BESWICK:** Well we were deliberating on the process to be followed and at the time Dr Manning put up her hands and said that we're being played here and we suddenly realised that there was an ulterior motive as to why we need to do an external investigation into Dr Matjila. It appeared that they wanted him to be suspended so that an alternative CEO could be placed there. We also allowed the CEO and the CFO to

provide their taking on the e-mails and to give their views which we believed was the correct process to follow.

**ADV JANNIE LUBBE SC:** Can I, again sorry to interrupt again, the evidence of Mrs Hlatshwayo yesterday was that you had before the meeting started in your Board pack the written versions of the CEO and the CFO regarding these allegations and they were then later called in to supplement or to explain what they state is that correct?

**MS SANDRA BESWICK:** That is correct but we also had the documents of the approval process that was followed. They gave us a detailed explanation of the processes that were followed and we deemed those processes to have been followed  
10 within the policies of the PIC. We also, before the start of the meeting and at the start of the meeting were concerned and we questioned why a special Board meeting was called when this was ostensibly a matter for the Directors Affairs Committee.

**MS GILL MARCUS:** Just a question in relation to that, at that point in time were you aware of the airport meeting and the Ministerial pressure being put on the CEO?

**MS SANDRA BESWICK:** No we weren't aware of that and it didn't come out in the internal investigation it only was reported in the Budlender Report in last year.

**MS GILL MARCUS:** Would you with hindsight if that had been revealed felt that the processes were appropriate?

**MS SANDRA BESWICK:** Yes I do believe that because we were looking at the PIC  
20 processes although the Budlender Report did question why we, you know we didn't do that and would have come to light earlier. Perhaps it would have perhaps it wouldn't have and we didn't know, you know he said we should've reported it to the Finance Minister, we don't know if any action would have been taken from that. I think also the investigation; they wanted us to do an internal investigation which was based on basically e-mails from an unknown party that were unsubstantiated at that time.

**ADV JANNIE LUBBE SC:** Can you please proceed?

**MS SANDRA BESWICK:** Okay at the special Board meeting of 15<sup>th</sup> September the decision to commission an investigation by the Head of Internal Audit instead of an internal investigator as per the original decision was taken when the Board had satisfied itself that the documents presented of the approval of the MST transaction reflected that the PIC processes were duly followed. The CEO and CFO were called to provide the explanation into the allegations which they deemed to unfounded. The CEO denied he had any relationship with the mentioned, with the woman mentioned in the mail and the Head of Internal Audit was given two weeks to report the findings to the Board.

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**ADV JANNIE LUBBE SC:** Can I again interrupt. Was there a split in the Board about the CFO and the CEO having given the right of audience to state their case?

**MS SANDRA BESWICK:** There was a split but then they were allowed to give their view. There was also a split, well Mrs Zulu she abstained from signing the resolutions because she did not believe that we should do an internal investigation she wanted the external investigation to be conducted.

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

**MS SANDRA BESWICK:** Comprehensive details of this turbulent period have been widely covered in the evidence provided by Dr Claudia Manning to the Commission. I will rather concentrate on the period after her departure in July 2018. I was constantly cognisant of my fiduciary duties and I felt obliged to try and protect the Government pensioners and employees assets including those of the Unemployment Insurance Fund and the Compensation Commission in the custody of the PIC.

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**ADV JANNIE LUBBE SC:** I'm sorry to interrupt again, and I'm just worried that I'll forget it. You mentioned at the beginning of your evidence that you Chair the Audit and

Risk Committee?

**MS SANDRA BESWICK:** No, no I Chair the Information Technology Committee.

**ADV JANNIE LUBBE SC:** Not the Audit and Risk Committee?

**MS SANDRA BESWICK:** No.

**ADV JANNIE LUBBE SC:** Must that be corrected?

**MS SANDRA BESWICK:** Was there?

**ADV JANNIE LUBBE SC:** 1.4.2.

**MS SANDRA BESWICK:** No it doesn't say Chair.

**ADV JANNIE LUBBE SC:** Oh sorry you're the member, I'm sorry that's my mistake. It

10 was Chaired Tantaswa Fubu before she resigned?

**MS SANDRA BESWICK:** Yes.

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

**MS SANDRA BESWICK:** Yes.

**ADV JANNIE LUBBE SC:** Apologise.

**ADV JANNIE LUBBE SC:** The period from March, April 2018 to date under the Chairperson Mr Mondli Gungubele. Special Board meetings became the norm and lasted a good couple of hours becoming arduous and fragmented. They were scheduled at short notice often commencing at unsociable hours. Documents were not always circulated timeously thereby not allowing Board members sufficient time to  
20 review them.

**ADV JANNIE LUBBE SC:** Can you briefly just tell the Commission about the first meeting with Mr Gungubele as the Chair, what happened, was it a pleasant comfortable meeting was it ... (intervention)

**MS SANDRA BESWICK:** It was a very uncomfortable meeting. The Board was slated, he was reading from minutes of the 15<sup>th</sup> September and the 29<sup>th</sup> September and he felt

that the Board hadn't done its duty correctly by not investigating the CEO through an external investigator. He castigated the Board for not following the processes as he believed we should have done.

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

**MS SANDRA BESWICK:** Special Board meetings became the norm and lasted – oh I've said that. At some of the meetings it appeared that Mrs Zulu was driving the proceedings i.e. acting as *de facto* Chairperson. Some members of the Board were afforded time to state their case while others were curtailed from voicing their opinions.

**ADV JANNIE LUBBE SC:** Can I again interrupt. According to the evidence of Mrs  
10 Hlatshwayo yesterday the split and unhappiness at Board meetings was especially focused when there was a discussion regarding the CEO.

**MS SANDRA BESWICK:** That's correct yes. In March, April 2018 an onslaught of media and public attention on the PIC intensified with renewed attacks on the integrity and alleged tyrannical management style of the CEO. Misinformation and leakage of confidential information, including Board documents abounded which is probably propagated and exacerbated by disgruntled employees who've either been dismissed or suspended. The sources of the renewed media attacks were unclear however the campaign was mainly directed at discrediting Dr Matjila.

These media attacks prompted the United Democratic Movement to launch a  
20 court application; I address it in paragraph 5. At the Board meeting of 22<sup>nd</sup> June 2018 to discuss the UDM court application the Chairperson spent an inordinate amount of time reading from the minutes of the Board meetings of the 15<sup>th</sup> and 29<sup>th</sup> September. He berated the Board on the decisions taken to firstly conduct an internal verification process on the MST matter and secondly to clear the CEO of any wrongdoing. He also expressed his concern that the Board had allowed the CEO and CFO to state their

case. It became evident that he was dissatisfied with the process that had been followed and I felt he was trying to pressurise us. One of the members likened it to an ambush to reopen the matter and commission an external forensic investigation despite the findings exonerating the CEO of wrongdoings relating to the Pretty Louw investment application.

**MR EMMANUEL LEDIGA**: Question, there were leaks of documents to the UDM did you guys you know manage to find out who leaked those documents to the political party, to that political party?

10 **MS SANDRA BESWICK**: No we didn't, we have suspicions but we didn't know who it was.

**MR EMMANUEL LEDIGA**: Okay.

**MS SANDRA BESWICK**: The majority of the Board including myself disagreed with this recommendation because we were satisfied that we had properly considered the allegations. Our decision to conduct an internal process and the result and outcome confirmed this decision. In a nutshell the PIC's internal investment approval processes that had been followed correctly and the Pretty Louw application had been rejected. The distrust amongst Board members ... (intervention)

**MR EMMANUEL LEDIGA**: Question.

**MS SANDRA BESWICK**: Sorry.

20 **MR EMMANUEL LEDIGA**: Question again, I need to go back to the leaks to UDM, you said you suspected something, can you maybe give us that because I've asked the Judge he says we can ask that question, suspicions?

**MS SANDRA BESWICK**: Sorry there were allegations in the disciplinary proceedings of Ms Mathebula that she had leaked information, we haven't received confirmation of that as yet. But this suspicion came and this is my view, is that the same lawyer that

was acting for the UDM was acting for some of the suspended and dismissed employees.

**MR EMMANUEL LEDIGA:** Which, give us the name of the lawyer, can you give us?

**MS SANDRA BESWICK:** Brian was it Mabuza I think?

**MR EMMANUEL LEDIGA:** Mabuza Attorneys?

**MS SANDRA BESWICK:** Erica Mabuza, Erica Mabuza yes.

**MR EMMANUEL LEDIGA:** Oh okay alright, thank you.

**MS SANDRA BESWICK:** Ja the distrust among Board members including the Chairperson resulted in further divisions and meetings became disjointed and confrontational especially on issues around Dr Matjila.

The United Democratic Movement court application; the special Board meeting of 22<sup>nd</sup> June 2018 was convened to discuss the urgent court application launched by the UDM to order the Finance Minister to suspend the CEO because of his alleged corrupt deeds, commission an external investigation of the MST transaction and conduct an independent inquiry into the CEO's alleged corrupt behaviour, prohibit the Board from taking any decisions concerning the suspension of the CEO because there was a conflict of interest having failed to suspend him in 2017. The respondents as cited in the application were Dr Matjila, the PIC which is the Board, Minister of Finance and the Chairperson. Three of those respondents filed an opposing notice while the Chairperson filed a notice to abide the UDM application after he had signed the Board resolution to oppose the action.

**ADV JANNIE LUBBE SC:** Can I just again interrupt. According to the Deputy Minister at the Board meeting he informed the Board that he was not going along with the resolution is that correct?

**MS SANDRA BESWICK:** That is correct yes. In his decision to abide the action he set

out his concerns. The decisions taken by the Board in September and October 2017 contents of the statements issued by the Board that the Board did not conduct an external investigation. The following statements are excerpts from his affidavit: The Chairperson has recorded that in his view the Board's decision to prioritise the forensic investigation regarding the leakages and not to conduct a forensic investigation regarding the allegations against the CEO could be seen to have been an attempt by the Board to shield the CEO and the CFO and to expose the whistleblower.

The Chairperson has also recorded that he raised his concerns with the Board and he cannot confidently state that the Board acted properly when it dealt with  
10 these matters. He has also expressed the view that there is not much objectivity and independence amongst Board members and the Board has relied on the views and advice of the CEO and compromised its duty of care. He has recorded that the Board has continuously refused, neglected and/or failed to conduct an investigation in regard to the allegations levelled against the CEO and this caused tension and created camps in the Board.

The Chairperson has also indicated that the majority of the Board refused to relook at the issues while the minority have constantly questioned the process that's adopted by the Board. The decision by him to abide by the court application was a contradiction in terms in my view, because he had signed the resolution of the Board's  
20 decision to oppose the action in his capacity as Chairman of the PIC. The Chairperson was undermining his own Board in public which further fuelled the divisions among Board members and led to the resignation of Dr Manning which weakened the Board significantly. Mrs Tantaswa Fubu also resigned at this time and that further led to weakening of the Board.

It was apparent that the Chairperson did not have faith and trust in the Board

about the way the MST matter was handled which continued unabated until the release of the findings contained in the Budlender Report which I describe in paragraph 6. The Finance Minister sent a letter dated the 14<sup>th</sup> May 2018 wherein he raised concerns about the continued media reports and in particular an article published in City Press dated 13<sup>th</sup> May 2018. The Board was required to provide feedback to him on these reports whether disciplinary action was taken against the CEO and CFO and the information requested by his predecessor Mr Gigaba.

**MR EMMANUEL LEDIGA:** Question, the Chairperson mentioned that there was a group you know which sort of wanted to protect the CE you know and you know from  
10 his side he wanted to sort of to suspend him you know really, so was there a way in which the CEO has sort of held you to ransom or he was you know you were sort of protecting him as a first question. The second question is that why was the Chairperson really adamant on taking this action about you now suspending the CEO, those two questions if you could give us some views there?

**MS SANDRA BESWICK:** In terms of Dr, if I can just go to your last question first, he never held us to ransom at all. We always were allowed to have robust debates with him and on a number of occasions I did take him to task about certain things that were happening at the PIC. He didn't hold me to ransom at all, he never, and we weren't pro  
20 Dr Matjila it was pro process and for the good of the PIC. And I'm not sure why the Chairperson wanted to reopen the external investigations but as I said earlier in our debates and when we decided to do the internal investigation the investigation was really based on a number of e-mails and media reports that we had received and anybody could have sent those e-mails, we didn't know who the source of those e-mails were and they did, you know they did, we did do some investigation but as I said it was based on hearsay, on e-mails and not based on true evidence.

The Budlender Report; at an extraordinary annual general meeting convened on the 25<sup>th</sup> July 2018 with the Finance Minister Mr Nene, the following items were discussed. The Board was requested to commission an external forensic investigation into the allegations made against the CEO and CFO; the apparent discord between some members of the Board and the Chairperson; divisions within the Board and lack of trust between members; plan of action dealing with current issues to be submitted to him by 17<sup>th</sup> August 2018. We were informed at that time that he was engaging with the President to institute a commission of inquiry into the activities of the PIC.

The Board agreed to commission the external investigation. Adv Geoff  
 10 Budlender senior counsel was appointed to lead the investigation. Adv Budlender released his findings and report on 30<sup>th</sup> September wherein the CEO was exonerated of wrongdoing in relation to the Pretty Louw investment application. It agreed with the internal report, audit report of 2017. The report highlighted that the CEO had failed to disclose facts to the Board about the pressure that was being applied by him, by being applied on him by the previous Cabinet Minister Mr David Mahlobo to assist the women in question. The Board was criticised for not conducting the internal investigation which would have highlighted the ... (intervention)

**CHAIRPERSON:** Isn't it external?

**MS SANDRA BESWICK:** Ja the external investigation, sorry, which would have  
 20 highlighted the Cabinet Minister's role earlier and which could have been reported to the Finance Minister. During the investigation Adv Budlender sent correspondence to the Deputy Chairperson Dr Xolani Mkhwanazi and Mrs Dudu Hlatshwayo recommending that a disciplinary proceedings against the company secretary Mrs Bongani Mathebula be delayed until the report of his findings had been finalised. It is also of concern to me that this report was not placed in the public domain. Since this

report was issued the Board has heeded the recommendation to record and minute all *in camera* meetings.

**ADV JANNIE LUBBE SC:** Before you move to the next item can you just briefly deal with the matter where it was common cause that the CEO contacted a person to assist Ms Louw financially, can you briefly deal with that, what was the decision or the attitude of the Board about that?

**MS SANDRA BESWICK:** In the initial e-mails from Mr James Nogu mention was made that the CEO had applied pressure on Mr Mulaudzi to assist Mrs Louw. We found out afterwards on the meeting of the 29<sup>th</sup> September where the Internal Auditor contacted  
10 Mr Mulaudzi and his spoke to the CEO to get their version of what had transpired. Mr Mulaudzi confirmed that the CEO had contacted him to assist Mrs Louw, I'm not sure whether it was in a monetary way or to assist her with her business in introducing her to his network and maybe there could be synergies between the business interest of Mr Mulaudzi and her business and it came out at the meeting on the 29<sup>th</sup> September the Internal Auditor reported that Mr Mulaudzi had given Mrs Louw initial R150 000,00 and then another R150 000,00 to stop the sheriff from evicting her from her premises. He said that the CEO did not apply pressure on him but he did feel obliged because he was an investee from, you know he benefitted from funds that were provided to his company from the PIC.

20 **ADV JANNIE LUBBE SC:** As in ... (intervention)

**CHAIRPERSON:** Sorry Adv Lubbe.

**MS GILL MARCUS:** Now in relation to that and again with hindsight would you not regard that as material non-disclosure and something of concern that this is an approach of a CEO to contact different people who have been funded by the PIC, was this the only instance you were aware of, did you ask the CEO if he did this on other

occasions because it's not a proper thing to do even if you're not saying do it, the implication is there about needing to do it and obviously with hindsight it's a question of saying would this have altered any of your views about the transaction? And then just to bring it up to date given all of the noise around the MST deal are you aware that it is not being serviced?

**MS SANDRA BESWICK:** I'm not aware that the transaction is not being serviced and I think to go back to the first point if we had more evidence at the time about Mr Mulaudzi and the, you know that he had helped Mrs Louw we probably would have taken further action, you know disciplinary action against the CEO.

10           The CEO issues. The relationship between some members of the Board and the CEO was becoming tenuous. The continual negative publicity in the media led me to believe that there were internal and external forces intent on having him removed from his position as CEO. This breakdown in the relationship culminated in Dr Matjila addressing a letter to the Chairperson informing him of his intention to tender his formal resignation in January 2019 and exit the PIC at the end of April 2019. An extract of the minutes from a meeting held on the 16<sup>th</sup> November states the Chairman informed the Board that the CEO had provided him with a letter of intention to resign. The Chairman undertook to forward the CEO's letter to directors for consideration and discussion was at the Board meeting scheduled for the 23<sup>rd</sup> November 2018.

20           This was the first time the Board as a whole was made aware of the letter from Dr Matjila. The letter attached dated, it's dated the 8<sup>th</sup> November not the 8<sup>th</sup> September it was my error, was only provided to the Board on the 22<sup>nd</sup> November 2018 despite the Chairman, the Finance Minister and the media having prior sight of it. Vital information was being withheld from the Board which means that our compliance with our fiduciary duties were compromised. The employees were also not informed

timeously and read about the letter in the media. A special *in camera* ... (intervention)

**ADV JANNIE LUBBE SC:** Sorry can I interrupt. Did you ask the Chairperson why this happened, was it discussed?

**MS SANDRA BESWICK:** At the meeting of the 29<sup>th</sup> – 23<sup>rd</sup> November I did express my concern that the Board had not seen the letter but I never received a response as to why we had not received the letter. A special *in camera* meeting was convened on 23<sup>rd</sup> November 2018 where once again the divisions among Board members became evident on whether to accept the letter of intent as a resignation or to agree to the terms mentioned to allow him to exit the PIC at the end of April 2019. Mrs Zulu was  
10 adamant that the letter constituted a letter of resignation on the following basis which she read out in terms of case law. An extract from the minutes of the meeting reported what was read out at the meeting by Mrs Zulu. The Labour Appeal Court and the Appellate Division, now the Supreme Court of Appeal have held that when regarding the test for resignation that an employee has to by words of conduct evince a clear and unambiguous intention not to go on with his contract of employment and has to act in such a way as to lead reasonable person to the conclusion that he did not intend to fulfil his part of the contract.

The majority of Board members agreed that the letter evinces his resignation and did not accept the terms and conditions he proposed declaring that the breakdown  
20 in trust as stated by him in the letter was of concern and that they could not continue to work with him on that basis. Other members including myself expressed the view that in order to have a stable transitional phase he should be allowed to exit from the PIC in an orderly fashion at the end of April 2019. My legal advice at that time was that the letter did not constitute a letter of resignation.

**ADV JANNIE LUBBE SC:** Sorry to interrupt again, did you in fact at that point in time

sought legal advice on this issue?

**MS SANDRA BESWICK:** Yes I did.

**ADV JANNIE LUBBE SC:** And the advice was?

**MS SANDRA BESWICK:** That it was not a letter of resignation. We were also concerned that the acceptance of his resignation could be labelled as an unfair labour practice because it may not be compliant with HR processes and policies of the PIC and could lead to legal action being taken against the PIC. The ... (intervention)

**MR EMMANUEL LEDIGA:** Question, ja just a question, in terms of the advice which you said you sought, was that yours or Board advice, I mean was it a personal advice  
10 that you got?

**MS SANDRA BESWICK:** It was personal advice on a sort of informal basis.

**MR EMMANUEL LEDIGA:** Yes but it was not put to the Board and all that?

**MS SANDRA BESWICK:** No.

**MR EMMANUEL LEDIGA:** Okay.

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

**MS SANDRA BESWICK:** The majority of the Board accepted his resignation with immediate effect and required him to vacate his office by Monday the following week. The letter to Dr Matjila accepting his resignation was drafted by Mrs Zulu during the meeting. The Chairperson briefed Dr Matjila of the resolution adopted by the Board  
20 and him the letter accepting his resignation. The minutes reflected the following response from the CEO, he expressed the view that he did not submit a resignation letter but a letter of his intention to resign effective the 30<sup>th</sup> April 2019. He did not view the decision of the Board as an amicable separation and sees the decision as a breach of his employment contract he therefore does not accept the Board's resolution. He was not allowed to continue to address the Board and was dismissed from the meeting

after having received the letter.

I felt that there was a contradiction ... (intervention)

**MS GILL MARCUS:** Sorry can I just ask, and just for emphasis or clarity so in essence HR and legal advice from your own legal, the PIC's legal team and the head of HR were not involved in drafting that letter?

**MS SANDRA BESWICK:** No they were not.

**MS GILL MARCUS:** It was done by the Board or a Board member in the meeting?

**MS SANDRA BESWICK:** It was done by a Board member, she did circulate it to us for our comments.

10 **MS GILL MARCUS:** But it was not with the head of HR looking at process and saying this is what we need to do, this is what we want to do, the HR was not involved at all?

**MS SANDRA BESWICK:** No, no they weren't involved at all.

**CHAIRPERSON:** If I can just go a little bit back, you mentioned that you had sought legal advice with regard to whether or not the decision that the CEO had resigned was correct am I right?

**MS SANDRA BESWICK:** Sorry?

**CHAIRPERSON:** Did you mention to Board members that I have taken legal advice and my advice is that this is not accordance with the law?

20 **MS SANDRA BESWICK:** No I didn't. I felt that there was a contradiction in saying that he must be treated with dignity and honourably at the meeting however the manner in which he was notified of the Board's decision did not reflect that sentiment. The decision to appoint Mrs More in the role of Acting CEO was a majority decision which was in fact the Chairman voted in favour of that because the Board was split. I was one of the directors that did not agree with the decision because she had been implicated in some of the James Nogu e-mails. A task team was appointed to obtain

legal guidance to ensure that Dr Matjila was compensated fairly in respect of his remuneration, bonus and benefits.

**MS GILL MARCUS:** Sorry was that legal advice obtained?

**MS SANDRA BESWICK:** The legal advice was obtained yes, we did receive at a meeting after, a long meeting at SCOPA that was communicated to us.

**MR EMMANUEL LEDIGA:** Question there was a to and fro about Dr Matjila you know people saying he needs to leave, some say we need to keep him, but there was a lot of media you know attention on transactions across the Board. The people who were supporting him so to say didn't they look at that and say you know there are so many  
10 things which show that this company could have problems, you know could be having problems and didn't you think that you know the Doctor was accountable for that?

**MS SANDRA BESWICK:** Until it was proven that he had done, you know that he was involved in these transactions I think we couldn't hold him accountable. It was also media speculation; the Board did do some investigations into some of the transactions and which are being done now by the Commission of Inquiry. Perhaps it wasn't really to say if the person it was for the institution so that the transitional phase could take place in an orderly way. I felt that it would be destabilising for the organisation if we let him go immediately.

**ADV JANNIE LUBBE SC:** I think the point that's being raised is in your experience  
20 was there any sign that some members of the Board tried to protect Dr Matjila at all costs?

**MS SANDRA BESWICK:** No, there was no sign of that at all it was more to protect the institution rather than the individual himself. The meeting of 21<sup>st</sup> January 2019 which lasted from 4 p.m. till 2 a.m. there were two items on the agenda the Ayo Technology Interim Report which was prepared by Internal Audit and an update on employee

relations were the main items on the agenda that were discussed at the meeting.

The Ayo Technology Interim Report; the Head of Internal Audit was commissioned by the Chairperson after the scope and meeting in December to perform a review of the processes followed into the investment in Ayo Technology Solutions Limited by the Chairperson of the PIC Board. The 94 paged report entitled draft report on preliminary review of processes followed when investing into the Ayo Technology Solutions transaction in 2017 was only circulated to the Board members at the meeting on the 21<sup>st</sup> January 2019 after we had insisted that the Head of Internal Audit make copies for us. He went out of the meeting to make the copies and returned later with  
10 copies.

**ADV JANNIE LUBBE SC:** Just to get that clear, the evidence before the Commission was that initially they walked in, the Chairperson and the Internal Auditor, with one copy?

**MS SANDRA BESWICK:** The Internal Auditor had one copy and the Chairperson had his copy.

**ADV JANNIE LUBBE SC:** And Board members then insisted to have copies?

**MS SANDRA BESWICK:** Yes we did because we couldn't make a decision based on not having read the report, we couldn't apply our minds even though we had only received it that night. The Chairperson said his reason for not allowing the report to be  
20 seen prior to the meeting was because Board members could not be trusted not to leak it. He remained adamant that the Board was not unduly compromised despite the requirement to reach a decision at the meeting.

A scan of the document revealed a number of errors of incorrect dates, the sequence of events were not in chronological order and contradictions. It was evident that the report was compiled hurriedly and was not reviewed for errors before it was

given to the Board. The summarised key findings were presented by the Head of Internal Audit Mr Lufuno Nemagovhani. The preliminary findings of the report indicated that the transaction team had flouted PIC internal investment transaction processes. The overall sentiment expressed by me and other Board members was of our discomfort and opposition to make serious decisions based on an interim draft preliminary report that was only provided to us at the meeting. It meant we were taking a hurried decision without being able to apply our minds. This was of particular concern to me because the Board had been criticised in relation to the Pretty Louw matter including by the Chair himself for accepting a final internal audit report without  
10 an external forensic investigation. Despite our reservations the Chairperson and Mrs Zulu insisted that action had to be taken against implicated employees immediately.

**ADV JANNIE LUBBE SC:** Why was that so urgent?

**MS SANDRA BESWICK:** I can't answer that. A heated debate ensued and concerns were raised about the appropriateness of taking decisions which could be construed as interference into the Commission of Inquiry process because the Ayo transaction was on the Commission's list for investigation.

**ADV JANNIE LUBBE SC:** Can I again interrupt.

**MS SANDRA BESWICK:** Yes?

**ADV JANNIE LUBBE SC:** Did the Board know at the time that the two persons that  
20 were in fact provisionally suspended were due to testify that same day before the Commission?

**MS SANDRA BESWICK:** We did know that Mr Madavo was testifying the next day. A decision by the majority of the directors was for Mr Fidelis Madavo Executive Head Listed Investment and Mr Victor Seanie Assistant Portfolio Manager Non-Consumer Goods to be suspended on a precautionary basis. Disciplinary action had to be

applied against the other implicated employees including the Acting CEO Mrs Matshepo More. The letters of suspension ... (intervention)

**MR EMMANUEL LEDIGA:** Question, question, so action has been taken against the two people you know why has action, why have the others not been action taken on?

**MS SANDRA BESWICK:** I did recommend that other employees, similar action should be taken against the other employees. I think we have to remember that we didn't want to take the action because we had not applied our minds to the meeting, to the report, but it was seemed as though we were being forced to take action. There was another member Mr Lebogang, his surname escapes me at this time, who signed the initial

10 ... (intervention)

**ADV JANNIE LUBBE SC:** Molebatsi.

**MS SANDRA BESWICK:** Molebatsi who signed the initial subscription agreement with Dr Matjila and I recommended that he be suspended as well but my viewpoint was not accepted. The letters of suspension were once again compiled at the meeting by Mrs Zulu without the assistance of the Executive Head of Human Resources which was of concern because these actions might once again be in contravention of the PIC Human Resources Policy and the Labour Relations Act. I will just say that at the meeting she did have a look at the Human Resources Policy quickly with regarding to precautionary suspensions.

20 The Head of HR was informed at 01:30 a.m. of the decisions taken by the Board and was instructed to implement the precautionary suspensions and disciplinary processes. The media statement was also written at the same time by the same Board member without the assistance of the Head of Corporate Affairs. It appeared to me that Mrs Zulu was fully prepared for the meeting and had read the draft internal report before the Board meeting. At the end of the discussion we were instructed to sign our

copies and return them to the Chairperson. Copies were eventually given to us with a watermark days after the meeting.

**ADV JANNIE LUBBE SC:** Before we finish this topic can you please assist the Commission it just seems to me inherently unfair that where the Internal Audit Report, the preliminary draft report recommends that action be taken against all those present at the meeting of the 20<sup>th</sup> December 2017 only two people provisionally suspended and one of them the most junior person at the meeting, was that debated, was that discussed?

**MS SANDRA BESWICK:** It was discussed and we were aware that Fidelis Madavo  
10 was out of the country at the time of the transaction but the Internal Auditor expressed his view that Mr Madavo was being evasive when was questioned about the transactions and whether the processes had been flouted. We did express our views but as I said to you before we were not heard. And also the view that he was appearing at the Commission of Inquiry the next day was of concern to me.

**MR EMMANUEL LEDIGA:** So the question just to follow up is that what about the others, Dr Matjila signed the subscription form, the Acting CEO signed the cheques, you know what was the debate there?

**MS SANDRA BESWICK:** I really don't know it was recommended that everybody be  
20 treated the same but the decision was to take disciplinary action against the Acting CEO at that time. I cannot tell you the reasons why. I can't remember but if I can – I'll have a look at my notes again and come back to the Commission if you require it.

**ADV JANNIE LUBBE SC:** Proceed.

**MS SANDRA BESWICK:** Where was I?

**ADV JANNIE LUBBE SC:** 8.8.

**MS SANDRA BESWICK:** Ja update on employee relations; the reasons for the

inclusion of the agenda item entitled employee relations were not clarified in a covering memorandum which is according to standard practice of the PIC for presentations of documents requiring approval or noting. These issues related to the suspension and the status of the disciplinary proceedings of the company secretary Mrs Bongani Mathebula and a settlement agreement reached with Ms Menye the previous Executive Head of IT. The Chairperson and some members were insisting that a disciplinary proceedings against the company secretary Mrs Bongani Mathebula be lifted immediately despite the advance stage of the proceedings and she be reinstated as the company secretary with immediate effect.

- 10           The Board members agreed to allow the disciplinary proceedings to continue because it was expected that they would be finalised within the next few weeks. Mrs Zulu advocated that Mrs Menye also be reinstated immediately in the position she held before the termination of her employment despite the conclusion of the R7 million full and final settlement agreement which was paid in 2018 and that Mrs Menye had left the company's employ. Mrs Zulu opined that the settlement agreement was a badly drafted document and berated the Head of HR for the way management had handled the process.

**ADV JANNIE LUBBE SC:** When did you first become aware of this settlement agreement?

- 20   **MS SANDRA BESWICK:** Last year, I'm not sure of the exact date but we became aware of it last year after the disciplinary proceedings had been finalised with her. It was also a fact in the media. Where am I now?

**ADV JANNIE LUBBE SC:** 8.9.5.

**MS SANDRA BESWICK:** Okay thank you. The Board resolved to appoint an external legal expert to provide an opinion on the validity of the termination agreement with Mrs

Menye. This I would like to add despite the presence of attorneys representing the PIC and Mrs Menye during the disciplinary proceedings.

**ADV JANNIE LUBBE SC:** Was this legal opinion obtained in fact?

**MS SANDRA BESWICK:** I really can't say, I think they did approach legal, they did approach legal companies for opinion but I'm not sure whether it has been provided as yet.

**ADV JANNIE LUBBE SC:** Just to put it on record Mr Commissioner during the disciplinary proceedings of the former secretary the PIC was legally represented and the employee was also legally represented and the settlement agreement was signed  
10 between the parties and the legal representatives at the time.

**MS SANDRA BESWICK:** Mrs Menye, it was Mrs Menye.

**ADV JANNIE LUBBE SC:** Mrs Menye.

**MS SANDRA BESWICK:** In my capacity as the Chairperson of the ICTGC Committee I was vehemently opposed to the reinstatement of Mrs Menye because I did not believe she was competent to head the IT department.

**MS GILL MARCUS:** Sorry can I just ask you a question on that, given that your concern about her competence had this in any way featured prior to the events around Mrs Menye so that you had dealt with your concerns in the organisation in the Board with Mrs Menye directly?

20 **MS SANDRA BESWICK:** Yes I had, it was at various meetings I wasn't the Chairperson of the IT Committee at that time but she presented a lot of proposals and strategies to the Committee which quite frankly were very badly written documents and appeared to be copy and paste from certain sources and we did, I did request her on many occasions to edit the documents and provide us with proper, properly written information.

**MS GILL MARCUS:** And was that ever done and presented in a satisfactory manner?

**MS SANDRA BESWICK:** One or two of them were done yes, but – okay. Mrs Menye had presented a R1 billion modernisation plan for the IT systems of the PIC through the installation of the SAP system. The Committee agreed the resolution to submit the plan to the Board for approval subject to certain conditions one of the main ones being a breakdown of the costs, also the phases of the implementation of the process and whether, she had to prove whether the PIC really did require those systems. Such breakdown was never provided. Dr Matjila stopped the process because of his concern that Mrs Menye’s proposal could be part of a State capture scheme. I was of the same  
10 view.

These HR matters clearly fell within the powers of management however it seemed that the Chairperson and Mrs Zulu wanted the Board to overrule the decisions of management in relation to these two individuals. If I can also add that the budget for the IT systems, the computer software and hardware in 2017/2018 was R72 million and in 2018/2019 were R90 million which included part of the R72 million that had not been spent the previous year. Also just to add that the IT systems installed at the PIC the software are internationally renowned systems for asset management companies being high port Charles River and they continually are upgraded. The IT systems in my opinion are fit for purpose for the PIC.

20 That is what people do is they buy expensive IT systems and they have various people to benefit from the installation of these systems even though the organisation might not need it. Okay number 9 – sorry.

“James Nogu serviced again under the pseudonym of James Noko attacking various board members for impropriety and corruption delving into their person lives. At a board meeting on the 1<sup>st</sup> February 2019 the board was

informed by the Chairperson that he had received a call from the Finance Minister. The Finance Minister was allegedly angry at allegations and said the board should consider resigning immediately failing which he will fire us and appoint an interim board within the next week.

I emphasize that the Chairperson was the only channel of communication with the Finance Minister and we did not speak to him directly. This demand was highly irregular because the repercussions could be disastrous for the PIC. It could lose its face licence and was in contravention of the Company's Act for a company not to have a board. All nine members of the board  
10 agreed to resign and issued a letter to the Finance Minister stating that we were prepared to continue as board members until the interim board had been appointed which we believed was the following week.

It was agreed that all Committee and board meetings be cancelled forthwith.”

**ADV JANNIE LUBBE SC:** Can I just ask you. It was testified by Ms Hlatshwayo that this letter of resignation was drafter at the board meeting by Ms Zulu.

**MS SANDRA BESWICK:** Yes it was.

**CHAIRPERSON:** What sorry – why did you think that a new board would be appointed the following week? What did you think that?

**MS SANDRA BESWICK:** We were told that the Finance Minister was ready to appoint  
20 a new board by Thursday the next week. Also was in the media that this might happen which maybe we shouldn't have believed.

**MS GILL MARCUS:** Can I just ask a question then? Did the board discuss its own viability and the legality of any decisions taken given that in terms of the MOI you should have a minimum of ten members and not nine? Was this a matter for discussion and how did you deal with that?

**MS SANDRA BESWICK:** No we haven't discussed it.

**MS GILL MARCUS:** Do you not think that's really critical in a sense that if you are – unless there is some means by which you meet your criteria of legality of the board the effect on any decisions taken and have you sought legal opinion or are you going to seek legal opinion about the ability of the board as it is now with nine members to continue to function effectively until a new board is appointed given the question of quorum?

**MS SANDRA BESWICK:** Yes we are seeking legal opinion on that matter. Just to state that further in my statement. After we agreed not to hold meetings Ms Hlatshwayo  
10 wrote to the Chairperson indicating that it was irregular and we could not be held responsible and accountable for any decisions taken by the Company while we were not actively involved. I will come to that.

**CHAIRPERSON:** Well does that not mean there actually is no board?

**MS SANDRA BESWICK:** Subsequent to that we received a letter from the Chairperson stating that we must continue with our duties as board and we are continuing to have meetings – committee meetings and represent the PIC as board members.

Then we received a letter as I said in my statement on the 15<sup>th</sup> February wherein the Finance Minister accepted the resignations and requested we continue with  
20 our duties until the interim board had been appointed.

**CHAIRPERSON:** But of course if I understand the position correctly the nine who resigned who are non executive board members ...(intervention).

**MS SANDRA BESWICK:** Yes.

**CHAIRPERSON:** Yes. So with the executive board members the board is quorate.

**MS SANDRA BESWICK:** There are ten members of the board. There were ten

members of the board. We have had a subsequent resignation by a board member Ms Lindiwe Toyi. I think it was last week.

**CHAIRPERSON:** And so how many are there now?

**MS SANDRA BESWICK:** There is eight non-executive directors and one executive member. There is nine so we not properly constituted.

**MS GILL MARCUS:** I think that's - you know just the question would be notwithstanding a letter from the Minister of Finance that you continue functioning. The fact that you are not ten anymore has to be material to the decision making of the board and I would think that your legal opinion on continued functioning should be quite  
10 urgently obtained and provided to the Commission.

**MS SANDRA BESWICK:** I agree with you yes we will do that. I will request that it's done ...(intervention).

**ADV JANNIE LUBBE SC:** It has been requested.

**MS SANDRA BESWICK:** Has it been requested ja. I'll do it again ...(intervention).

**MR EMMANUEL LEDIGA:** Just another question. Can board committees actually work if the main board is not quorate?

**MS SANDRA BESWICK:** The committees are quorated because the policy is that you have to have more non executive directors then executives and we are quorated at the time. The Committee meetings and the board – committees function optimally, decision  
20 are taken now with us not being quorated at as a board I'm not sure what the legality of the decisions is.

**CHAIRPERSON:** I suspect this speaking this off the top of my head now that you should get legal advice on that as well. That should be included in the advice that you are seeking as a board.

**MS SANDRA BESWICK:** Will do yes okay. (Indistinct).

**ADV JANNIE LUBBE SC:** (Indistinct) relax.

**MS SANDRA BESWICK:** “Current board proceedings. Special board meetings have become the norm often convened at short notice while documents were not provided timeously. A number of special board meetings in my view reflect a dysfunctional board which lurches from crisis to crisis. The divisions in the board became obvious when factions among members emerged within an environment of mistrust. It felt at times that we were blindsided and ambushed into making decisions that we were not comfortable with particularly after lengthy often disjointed discussions.

10 As I said the sub-committees of the board functioned well and resolutions were adopted without too much disagreement between the members despite the dysfunctional board meetings.”

I just touched on the board remuneration because I thought it might be important for the committee to know it.

“In 2017 SARS ruled that a non-executive director is regarded as an independent contractor and should register for vat purposes if fees paid exceed R1-million per annum. The fees paid to the non-executive directors of the PIC are inclusive of VAT which were paid until June 2018. Since 2018 the fees paid – there was a mistake sorry.”

20 **ADV JANNIE LUBBE SC:** 2018.

**MS SANDRA BESWICK:** Ja 2018.

“The fees paid to non-executive directors that are not VAT registered are paid 14% less than in previous years. Non-executive directors that are registered for vat are paid the fees inclusive of VAT. The fees paid have reduced since June 2018 also when the VAT rate was increased to 15%.

Because we were overpaid the VAT portion in June 2018 because I don't pay VAT we've had to pay back the PIC that overpayment."

**MR EMMANUEL LEDIGA:** Just a question. I mean since we are here can you just give us an indication about the board fees and all that you know and how are they calculated?

**MS SANDRA BESWICK:** These are the board fees before – with including VAT. For a board meeting its R19 542 ...(intervention).

**MR EMMANUEL LEDIGA:** One nine ...(intervention).

**MS SANDRA BESWICK:** One nine yes. Only one nine yes.

10 **MR EMMANUEL LEDIGA:** H'm.

**MS SANDRA BESWICK:** The committee meetings are R11 167,00 approximately and there is a retainer of a R142 000,00 conditional on us attending four board meetings per annum.

**MR EMMANUEL LEDIGA:** And the main board is that quarterly meetings or what?

**MS SANDRA BESWICK:** It should be quarterly meetings yes.

**MR EMMANUEL LEDIGA:** And the committee meetings?

**MS SANDRA BESWICK:** The investment committee meetings should take place once a month and other board meetings are also – I mean other committee meetings are on a quarterly basis as well so are required yes.

20 **MR EMMANUEL LEDIGA:** So your meetings where you serve are they quarterly? Are there meetings which are monthly on your boards – you know your committees – the ones where you sit.

**MS SANDRA BESWICK:** The investment committees depending on the decisions that are required they do occur monthly ...(intervention).

**MR EMMANUEL LEDIGA:** This is the only one where this monthly meetings

...(intervention).

**MS SANDRA BESWICK:** There is the investment committee and then the sub-committee is under the investment committee ja.

**MR EMMANUEL LEDIGA:** Monthly meetings ...(indistinct) because of the transactions.

**MS SANDRA BESWICK:** If required yes, if required yes.

**MR EMMANUEL LEDIGA:** Okay and the other meetings are just quarterly.

**MS SANDRA BESWICK:** Yes.

**MR EMMANUEL LEDIGA:** Alright.

**MS SANDRA BESWICK:** Ja but now we've had more special board meetings then  
10 we've had quarterly meetings.

**MR EMMANUEL LEDIGA:** Ja, ja ...(indistinct) ja.

**MS SANDRA BESWICK:** "Recommendations to the Commission. These are purely  
my views. The organisational structure of the PIC must be adapted as soon  
as possible to comply with the MOI in accordance also with the GEPF – the  
pension fund requirements for the reinstatement of the chief investment  
officer role. Additional executive roles of chief risk officer and chief of IT  
should be considered when restricting the PIC."

**MS GILL MARCUS:** Might I just ask you there when you looking at the role of a chief  
risk officer do you recommend or have a view on whether the board committee should  
20 be audit and risk or audit its own and risks it own given all the things that have  
happened?

**MS SANDRA BESWICK:** If I have covered that in 12.7 I've recommended that they  
should be possibly split. I think the risk department of the PIC is vitally important in  
protecting the institution and the funds under management.

**MR EMMANUEL LEDIGA:** Question, question. If you have to do a decentralised

structure do you think do you need the CIO role in a non centralised structure?

**MS SANDRA BESWICK:** Yes you still do.

**MR EMMANUEL LEDIGA:** In what way?

**MS SANDRA BESWICK:** At the holding company level you would need a CI  
...(intervention).

**MR EMMANUEL LEDIGA:** At the holding company ...(intervention).

**MS SANDRA BESWICK:** ... to review all the transactions that are taken – and perhaps  
but also depending on the costs – cost effectiveness is to have a CIO in each of the  
business units.

10 **MR EMMANUEL LEDIGA:** Yes.

**MS SANDRA BESWICK:** It might be advisable.

**MR EMMANUEL LEDIGA:** Better okay.

**MS SANDRA BESWICK:** I think also for what you call segregation of duties I think it's  
very important.

**MR EMMANUEL LEDIGA:** And chief risk sort of within the departments or at the top?

**MS SANDRA BESWICK:** A chief risk officer at holding level but each business unit  
must have a head of risk as well ...(indistinct).

**MR EMMANUEL LEDIGA:** Alright thank you.

20 **MS SANDRA BESWICK:** "The appointment of the chairperson of the board should be  
based on experience and expertise in the financial services industry with the  
emphasis on asset management. They must have knowledge of the  
workings of a complex organisation similar to that of the PIC. The board  
should be composed over a number of independent individuals with the  
requisite investment and commercial competence which is vital particularly  
when transactions are assessed for approval."

**CHAIRPERSON:** Have you seen the PIC ...(intervention).

**MR EMMANUEL LEDIGA:** (Indistinct).

**CHAIRPERSON:** (Indistinct) is busy doing the rounds in Parliament. Have you had access to it – the bill?

**MS SANDRA BESWICK:** I am aware of it. I have seen it but I haven't really read it thoroughly and I ...(intervention).

**CHAIRPERSON:** But this will be directly opposed to it. What you are suggesting here would be directly opposed to it?

**MS SANDRA BESWICK:** Yes it is.

10 **CHAIRPERSON:** Ja.

**ADV JANNIE LUBBE SC:** On that score Mr Commissioner – sorry Mr Lediga.

**MR EMMANUEL LEDIGA:** Ja just a question. Are there any benefits for the Deputy Minister of Finance to be the Chairperson of the PIC board during your tenure like sort of have you seen any benefits for that?

**MS SANDRA BESWICK:** Are you saying for himself or for the PIC?

**MR EMMANUEL LEDIGA:** Ja for the PIC – for the PIC. We talk for the PIC.

**MS SANDRA BESWICK:** Well I think ...(intervention).

**MR EMMANUEL LEDIGA:** Ja are there any benefits for the PIC that the DM becomes the Chairperson?

20 **MS SANDRA BESWICK:** I don't think so. I think possibly ...(indistinct) isn't between the PIC and the shareholder which is represented by the Finance Minister that possibly is beneficial but I think we should – the PIC should not be – have political connotations to it because of the nature of the work that it does.

**ADV JANNIE LUBBE SC:** Can I just ask on that question following up on the bill before Parliament. Was any board member or the board as a whole consulted

regarding the provisions of this bill?

**MS SANDRA BESWICK:** Not as I'm aware.

“The strategy to break up the PIC into a holding company with four or however many business units needs to be explored further in order to potentially reduce the risk of political interference and render efficiencies within the various processes. Board members including executives and executive heads should agree to undergo lifestyle audits regularly. I am prepared to submit myself to a lifestyle audit.

10 Investment processes. The fund investment panel should be – the two fund investment panels, the private equity panel and the social economic investment panel should be consolidated into one because in some instances there is an overlap of transactions. In some instances we have found that where the private equity portfolio might not agree to funding it will go to the other panel. We're not aware that the document – that the investment appraisal reports are going to two different committees.

The post investment management process should be improved with employees having the requisite skill to monitor the performance of the investing companies. The team must be equipped to spot warning signs of potential financial distress for immediate remedial action to be implemented.”

20 **ADV JANNIE LUBBE SC:** Is it your view at the moment that this post investment management process is not adequate?

**MS SANDRA BESWICK:** It's not adequate at this point in time. I think and also it's current practice for the employees of the PIC to be appointed as non executive directors on the boards of investee companies which I think it should be stopped.

It's also potentially – I know that they do like keeping an eye on what's

happening in the companies but in my experience that – you only as good as the information that you are given. Potentially they don't have the required skills of a – how can I say? A person that's had a number of years experience of being a non-executive on various boards and know what to look for in case of problems.

I think the VBS issue is there should be an alert for – for the PIC to change their stance on that.

“The commercial banks view the PIC as the lender of last resort because they perceive that the PIC does not apply – ja sorry – does not apply normal lending criteria to transactions. The PIC must consider mitigating the risk more effectively by taking tangible security and applying criteria where the lenders or investees provider their own capital and ...(intervention).”

**MR EMMANUEL LEDIGA:** Question?

**MS SANDRA BESWICK:** (Indistinct) sorry.

**MR EMMANUEL LEDIGA:** Ja question. If the PIC becomes very stringent like the banks and all that I mean wouldn't be constrained Black Economic Empowerment. I mean this is one argument to which is normally put huge like requirements to put own capital and other things?

**MS SANDRA BESWICK:** It won't be. I think the PIC also have a transformational mandate – a development mandate and they – I do believe that they can mitigate the risks more effectively with putting in some – more stringent security options.

The PIC does take equity risk but I think for the loans that there needs to be a lot more security taken. But obviously you have to consider the development, the transactions as they are presented. But a lot of instances the BBEE parties do have balance sheets and we are requesting now that they do put in their own capital as well because they need to have some skin on the bone.

**MR EMMANUEL LEDIGA:** Ja so you think that this can be done? You know a sort of balancing them and making sure that the PIC still gets returns?

**MS SANDRA BESWICK:** I believe it can be done yes.

**MR EMMANUEL LEDIGA:** Can be done?

**MS SANDRA BESWICK:** Ja.

**MR EMMANUEL LEDIGA:** Okay.

**MS SANDRA BESWICK:** As I said on 12.7.

10                   “The audit and risk committee should be reviewed and separated into two separate committees to gain better oversight of these very important functions.”

                  There are just two transactions that I wanted to highlight among a lot more in terms of the investment decision making process where I felt uncomfortable at the time about the prudence of the investment.

                  The one was – I’m not party to all the decisions but mainly on the private equity portfolio where I sit.

20                   “The one was Daybreak farms and that was done about three or four years ago the initial transaction that was approved. It was concerned about the exposure to the obligor because he was part of the consortium and it required in Afgri. The investment in Afgri was approved subject to the sale of the chicken section because of non performance. I questioned why the PIC was willing to fund this transaction when it was in contradiction of a decision taken by the investment committee.

                  The Daybreak farms did go through some really big problems about two years ago. Management issues as well and shareholder issues as well as the drought had effect. But I believe now that it is performing very well and

it's making profits so it's keeping its own. But the PIC had to take intervention and an effective chairperson was appointed to run Daybreak farms.

Just one the other side one of the executives said a long time afterwards that they were hoping that the committee would decline the transaction in the Daybreak transaction. It was already highlighted a concern. I mean it was certainly a long time afterwards. But that was already concern to me.'

**MR EMMANUEL LEDIGA:** So are you saying sort of the processes were breached there?

10 **MS SANDRA BESWICK:** The processes weren't breached. I think there was pressure put people to submit the application to the investment committee for approval.

**MR EMMANUEL LEDIGA:** Okay alright.

**MS SANDRA BESWICK:** And possibly by the investees. I'm just surmising I can't really say.

20 "The other one was VBS bank. I was concerned about the risk of funding and institution focussed on the unsecure market because I believed at the time the unsecured market was under extreme pressure with what was happening at African Bank and other similar institutions. I was told that this is the development mandate of the PIC and this is where we should be focussed."

Thank you.

**ADV JANNIE LUBBE SC:** Mr Commissioner this is the evidence of the witness. I don't know if there is any further questions by the Commission.

**MR EMMANUEL LEDIGA:** I've got about three questions. On the IT issues - the IT systems. Seems you are the Chairperson there. There were leaks and security issues

there. Do you maybe want to take us through the systems and how they were compromised?

What happened you know to give us a fuller picture? Also what has been done and what can be improved by the way this is within our terms of reference? So I'm taking advantage that you are here. Let's hear a better and a bigger story around that issue.

**MS SANDRA BESWICK:** Can I answer that question first?

**MR EMMANUEL LEDIGA:** Ja.

**MS SANDRA BESWICK:** Okay I can't tell you how the leaks happened. I do know that  
10 the executive head of IT when she was there Ms Menye gave the – Mr Mayisela has  
subsequently left. He was the head of security. She gave him super access powers to  
the system.

Which meant that he could – he had access to the whole of the PIC including board documents and confidential documents. But I'm not sure how the other leaks happened. I can't tell you that. But I can – if you need the information I can provide it to you at a later stage.

**MR EMMANUEL LEDIGA:** Yes.

**MS SANDRA BESWICK:** What has been done – the cyber security as I said is a major  
20 threat to the PIC – to the organisation. I think to every organisation in the world. How  
can I say – professional hackers have been employed by the PIC to see where the  
systems are vulnerable and to try and plug the holes.

But as we know technology is ever advancing and the hackers are getting more and more sophisticated in the way that they are handling matters. But there is regular checking to see where the systems are being hacked and if they are being hacked.

What has also been taken is that there are third party companies – independent companies that are providing services – security services to companies where they view your IT system all the time. 24/7 to see where – if there are any security breaches and the PIC has appointed such a provider.

**MR EMMANUEL LEDIGA:** Alright okay. Second question. Board skills you know now and going forward. Could you maybe give us views about what kind of board skills the PIC needs you know as skills of the board people there and are those skills there or are there any gaps around those skills?

**MS SANDRA BESWICK:** I think there are a number of gaps in the skills of the board at  
10 the moment. I think the board should be comprised as I said of investment – people that have had experience in investments and approving transactions in either a financial institution like a commercial bank or other similar asset management companies.

Also it's vital that we do have members of the board that have got commercial expertise. That have been board members, executive members and non-executive members that have previous experience of being on a board. Governance procedures also they need to be – what I'm trying to say. They need to be experienced in compliance in governance of board – in good governance behaviour of a board.

**MR EMMANUEL LEDIGA:** To add. So you are saying that within credit. You know like  
20 sort of the lending side that you should have like serious skills like a typical bank would have?

**MS SANDRA BESWICK:** Ja.

**MR EMMANUEL LEDIGA:** Ja is that what you saying?

**MS SANDRA BESWICK:** As ...(indistinct) saying is that they need experienced credit professionals. You know people that have worked in banks because their security

checks are rigorous having come from that background.

We were always fighting with credit to get transactions approved and I think they need those types of skills of people with good credit experience in commercial institutions. Perhaps maybe in - not on a contract basis if – you know if they are – perhaps as a bit older than what is required also to transfer their skills to people in the department.

**MR EMMANUEL LEDIGA:** Yes and on the transactions side there are quite some complex transactions and derivatives and everything. Are you saying that you need some strong investment bankers from say commercial banks and all that - you know  
10 the investment bank?

**MS SANDRA BESWICK:** I have found that the investment teams within the PIC the people are well equipped. There are a number of investment people that have experience outside of the PIC and their reports are very comprehensive.

They are very well done. They are very professional in what they do. They very bright and I think a lot of them are intelligent and intellectually equipped to handle the transactions. Their reports are being very comprehensive. I've seen you know how they've improved over the time and they are thoroughly investigated.

But as I always say you only as good as the information you've got today. Who knows what's going to happen further down the line. You can try and mitigate all  
20 the risks and try and forecast what's going to happen but we never know what's happen tomorrow.

**MS GILL MARCUS:** Sorry just in your response there if I could. I think there's a – in the question I interpreted it slightly differently as to draw a distinction between the employees of the PIC and the skills the board requires.

**MS SANDRA BESWICK:** Yes.

**MS GILL MARCUS:** And I think that the last part of what you saying was very much from the employees so that there is competence – what you say – confirming is that there is a high rate of competence within the PIC and its employees.

But the skills that need to match that and be present in the board are what you have also outlined so that you have a commensurate skill capacity.

**MS SANDRA BESWICK:** Yes there is a very good skill base within the PIC at the moment. There are some gaps within the risk department and the legal department but I do believe that the investment professionals are sufficiently equipped to review transactions, asses and analyse them judging by the reports that I have received. But  
10 at board level it's not the same level of competency.

**MR EMMANUEL LEDIGA:** Ja and then you mention that the skill set say Coronation, Old Mutual's you know they are wanted within the board or within the company in which way?

**MS SANDRA BESWICK:** I think it's actually on the board. It would be good to have people with those skills on the board.

**MR EMMANUEL LEDIGA:** Okay for – you know what for book bills and IPO's and all that, is that what you saying ...(intervention).

**MS SANDRA BESWICK:** No, no just I think from assessing the transactions and also reviewing investment decisions and being – how can I say? Part of the investment  
20 decision making process and oversight as well yes.

**MR EMMANUEL LEDIGA:** The oversight ja. The final question from me. Do you think that unions should have a board – you know board seats on the PIC?

**MS SANDRA BESWICK:** I don't think so but I do believe that they – you know they are asking for that. I believe that if they can add value there is no – it wouldn't be wrong to have them on the board as well. Maybe that will keep – you know stop them from

thinking negatively and give them insight into what's actually happening at the PIC.

**MR EMMANUEL LEDIGA**: The final one. During your time at the PIC have you seen any political pressure being put on the board you know – the Company or the board?

**MS SANDRA BESWICK**: For to do transactions?

**MR EMMANUEL LEDIGA**: Ja for transactions, for anything - intense political pressure.

**MS SANDRA BESWICK**: I haven't seen that in transactions. I wasn't aware of any political pressure on the transactions except with the Pretty Louw investigation what came out of the Budlender report. I'm not aware – obviously you do sometimes you know think in your mind that there might be political pressure but I don't have any proof

10 of that.

**MS GILL MARCUS**: Perhaps just one question is. As a board member given the delegation of authorities and the information coming out are you satisfied with the information flow to the board about investment decisions and not just from the investment committee but in general and that the delegation of authority is appropriate.

My in looking at the delegation of authority it's very - what is referred or required for board approval is very limited. So is there a question that that delegation of authority needs to be looked at? Obviously it is going to be reassessed given the GEPF R2-billion limit that now prevails until the delegations have been reviewed.

20 But in hindsight looking at all the issues that have been raised are you – what would you say about the delegation of authority by the board and what needs to come to the board?

**MS SANDRA BESWICK**: I do believe that it needs to be overhauled and perhaps as you said it is limiting in some instances. But the mandates of the - particularly in their listed investment space needs to be reviewed and the board needs to also have some oversight of what happened on their listed investment transactions.

As I said the IO transaction was within the mandate and the delegation of authority and look what happened. The board was only – I only became aware of it from media reports. So I think there definitely needs to be overhauled.

If it's limiting then maybe it's not such a bad thing. I think it should be also in line with the mandates of the clients being the government pension fund, the UIF and the compensation commission.

**MR EMMANUEL LEDIGA:** If one had to say that all transactions of the PIC need to go to the board for noting. You know even if they are below the thresholds would that work?

- 10 **MS SANDRA BESWICK:** No I think that would be very onerous on the board. The investment committee does report to the board on the evaluations. The investment committee does get the evaluations I think on a annual basis of all the investments that are done in the PIC.

The investment committees do get the information regarding the performance of the investee companies on a quarterly basis. I think that's sufficient. Where the board should be aware of is where perhaps there is investments that need action taken or are not performing adequately and could be in financial distress. Perhaps the board should be aware of that.

- 20 But I think at investment committee level it is adequate that they have the oversight of all the investments that have been done because they are board members anyway.

**ADV JANNIE LUBBE SC:** Isn't the IO transaction a perfect example of where the matter should be elevated – should have been elevated to the board where there was an audit query raised. It was supported to the audit and risk committee, it was elevated to the investment committee but it never reached the board.

**MS SANDRA BESWICK:** It did – the board was informed of it but the investment committee made the decisions about the action to be taken on that transaction.

**CHAIRPERSON:** But I suppose the board whatever information it would get with regard to transactions wouldn't know whether a process was somewhere during the processes. There was something that was amiss. They wouldn't know that offhand would you?

**MS SANDRA BESWICK:** No we wouldn't know that because you assume that when the transaction comes for appraisal or for approval that all the processes – due processes have been followed and you have to trust and which sometimes is not easy  
10 to do.

The internal processes within the executives and the management has been followed to book.

**ADV JANNIE LUBBE SC:** Thank you Mr Commissioner that's the business for the day.

**CHAIRPERSON:** Oh sorry, thank you so much for availing yourself to come to testify before us. We are much richer now in knowledge as to how things were happening within the PIC because of your evidence and the evidence of Ms Hlatshwayo and others as well. Thank you so much I'm sure you being here will encourage others who would love to come and give evidence before us.

**MS SANDRA BESWICK:** Thank you.

20 **CHAIRPERSON:** Thank you.

**ADV JANNIE LUBBE SC:** We shall then adjourn till Monday 10 o'clock ... (intervention).

**CHAIRPERSON:** Yes we shall adjourn now until Monday – what's the date on Monday - 4<sup>th</sup>? 4<sup>th</sup> March at 10 o'clock. Have you got any idea how many witnesses you have for that day?

**ADV JANNIE LUBBE SC:** Mr Commissioner at the moment the plan is to have about five witnesses ready for next week. The identity will not be disclosed as previously discussed.

**CHAIRPERSON:** Yes thank you. We will then adjourn until Monday at 10 o'clock.

**INQUIRY ADJOURNS TO 4 MARCH 2019**