COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT CORPORATION

HELD AT

TSHWANE, PRETORIA

4 MARCH 2019

DAY 10

PROCEEDINGS HELD ON 4 MARCH 2019

CHAIRPERSON: Morning, morning Adv Lubbe.

ADV JANNIE LUBBE SC: Good morning Commissioner, members. Thank you. Mr Commissioner the next witness is Mr Vuyo Jack he is ready to take the prescribed oath.

CHAIRPERSON: Your full names please Sir?

MR VUYO JACK: Vuyo Jack.

CHAIRPERSON: Do you have any objection to taking the prescribed oath?

MR VUYO JACK: No I don't.

CHAIRPERSON: If not do you swear that the evidence you're about to give will be the truth, the whole truth, nothing but the truth, raise your right hand and say so help me God.

MR VUYO JACK: Yes.

CHAIRPERSON: So help me God.

MR VUYO JACK: So help me God.

CHAIRPERSON: Thank you.

ADV JANNIE LUBBE SC: Thank you Mr Commissioner. We have placed before the Commission a detailed written submission by the witness as a well as a typographic submission. You will also notice that in his submissions he makes reference to other documentation, those are bulky documentation and it is available and ready if the Commission would like to have a look at it, one of the most important documents is a survey done by Deloitte's. We have prepared an executive summary because it will sync with the presentation of the witness but if there's any other documentation which he refers to in his submission it is available and ready if the Commission so requires.

CHAIRPERSON: Mr Lubbe I'm going to ask you not to drop your voice at any stage because I don't know we've got different mics and speakers here, I don't know if everything comes through well but when you drop your voice I can't hear you.

ADV JANNIE LUBBE SC: I take not Mr Commissioner I will also speak up so that you can even hear me without mic, as it pleases you. Can we have the same arrangement that I can be seated during the testimony?

CHAIRPERSON: Yes.

ADV JANNIE LUBBE SC: Mr Jack you have prepared a very detailed presentation for the Commission and as myself and the remarks by the Commissioner will you please speak up and speak into the microphone, we have some new mics today, it's not the same as previously but can you start with your presentation on page 4 the preamble?

MR VUYO JACK: Good morning. So in the preamble I state that I provide the statement in order to assist the Public Investment Corporation Commission of Inquiry with respect to the potential recommendation it can make based on the work that I did with in the PIC from December 2012 until November 2015. I am mindful of the significance of the PIC and the work of the Commission as stated in the preamble of the terms of reference and especially these particulars ones a) and whereas the Government is the guarantor of last resort for the obligations of the GEPF a failure of the PIC or a failure of any significant investment for the GEPF exposes Government to substantial financial vulnerability. And secondly, and whereas the PIC must be managed in accordance with the highest standards of ethics, integrity and efficiency so that its governance and investment decisions are beyond reproach and the investments of funds on behalf of members of the GEPF in particular are adequately safeguarded. And therefore in my testimony I respond to the following parts of the Commission's terms of reference which is paragraph 1.15 and 1.16 which state the following:

> "1.15. Whether the current governance and operating model of the PIC, including the composition of the Board, is the most effective and

efficient model and, if not, to make recommendations on the most suitable governance and operational model for the PIC for the future;

1.16. Whether, considering its findings, it is necessary to make changes to the PIC Act, the PIC Memorandum of Incorporation in terms of the Companies Act, 2008, and the investment decision - making framework of the PIC, as well as the delegation of authority for the framework (if any) and, if so, to advise on the possible changes."

ADV JANNIE LUBBE SC: You can proceed by telling the Commission who Vuyo Jack is.

MR VUYO JACK: I am a 42 year old black male born and raised in Dube Village Soweto. Growing up my ambition was to be a filmmaker and a musician which is why I decided to study business in order to learn how to raise money for my films and music productions and so, and then I went then, I hold a BCom Honours Degree in taxation which I got in 1997 from the University of the Witwatersrand and in 1998 I did one year of academic articles by lecturing at Wits. I completed the remaining two years of my articles with Pricewaterhousecoopers and then in January 2001 I qualified as a chartered accountant and was registered with the South African Institute of Chartered Accountants. While at PWC I specialised in financial services audits and later in my articles I worked in the learning and education division because I was really, really attracted to teaching.

ADV JANNIE LUBBE SC: Thank you. Can you now deal with your involvement with Empowerdex?

MR VUYO JACK: So while I was employed at Wits in 2001 as a financial accounting lecturer on a fulltime basis, in June 2001 myself and my colleague Mr Chia-Chao Wu co-founded Empowerdex which is a black owned company which pioneered broad-based black economic empowerment advisory and empowerment ratings as well as evaluating BEE transactions and their contributions to economic empowerment of black beneficiaries. The company, Empowerdex, was the first BEE rating agency in South Africa and as Empowerdex grew in scale I could not continue lecturing on a fulltime basis and hence I opted to lecture on a part-time basis while building the company. And then in 2003 I was part of the BEE task team which advised the Minister of Trade and Industry on the BEE legislation and the BEE guidelines to help companies implement BEE in a sustainable manner.

Empowerdex was engaged to contribute towards the Department of Trade and Industry BEE strategy and was subsequently involved in the drafting of the BEE codes of good practice which were gazetted in 2007. And then from 2009, sorry from 2004 to 2009 I was appointed as an advisor to the Minister of Minerals and Energy on BEE in the liquid fuel industry. I also compiled a 10 year review of BEE in 2004 for the Office of the President in the publication called 10 Year Review of Democracy. And in 2007 I wrote two books titled Broad-Based BEE – The Complete Guide and Make BEE Work For You.

From inception until 2008 I was very involved in the day to day running of Empowerdex as the Chief Executive Officer and Chairman. However, in 2009 I handed over the reins of running Empowerdex to Mrs Lerato Ratsoma and I assumed the role of Chairman. This allowed me to explore other business interest and therefore in 2009 I co-founded an investment company called Capafrica which focused on opportunities in the logistic sectors and private equity investments. One of our landmark investment was DB Schenker South Africa. Now Deutsche Bahn is a State-owned entity registered in Germany and is the ultimate holding company of DB Schenker where we acquired a

25.1 shareholding.

And in 2008 I also started a think-tank called Africa Empowered which serves as a platform for business to contribute to the economic development of Africa and to engage with people at the grassroots level. And the next year I was chosen as one of the young global leaders by the World Economic Forum based in Davos Switzerland and I became a founding curator for the Johannesburg hub of the Global Shapers by the World Economic Forum in 2011.

ADV JANNIE LUBBE SC: Okay.

MR VUYO JACK: So in February 2007 I was appointed as a Board member of Accounting Standards Board which is a national public entity established by the Minister of Finance in terms of section 87 of the Public Finance Management Act. The ASB consists of the Board and the secretariat. The Board consists of non-executive members of the ASB whose powers, functions, terms and conduct, are prescribed by regulations made by the Minister of Finance in terms of section 91 of the PFMA and the functions of the ASB are as follows:

a) They set standards of generally recognised accounting practice for the financial statements of institutions in all spheres of government;

b) They recommend to the Minister of Finance effective dates of implementation of these standards of GRAP for the different categories of institutions to which these standards of GRAP apply.

c) Promote accountability, transparency and effective management of revenue, expenditure, assets and liabilities of the institutions to which these standards of GRAP apply a public organisation legislated in the schedule 3 of the Public Finance Management Act in charge of establishing accounting standards for public sector organisation but not limited to municipalities and government departments.

So the ASB in its workings they report to the Finance Minister and they share an audit committee with the National Treasury owing to its small size and budget constraints. So in October 2009 I was nominated by the ASB to be a representative of ASB within the Audit Committee of the National Treasury which was at that time chaired Ignatius Sehoole. After Mr Sehoole's terms as the Audit Committee Chair expired in September 2010 I was appointed the Chair effective from 1st October 2010.

Now the National Treasury is also the Audit Committee for other public entities reporting to the National Treasury the first one being Government Pension Administration Agency known as GPAA, which is a Government agency established in terms of section 7(a)(4) of the Public Service Act with effect from 1st April 2010. What the GPAA does is to administer benefits on behalf of the GEPF and the National Treasury. And then the second entity that is under the National Treasury Audit Committee is Cooperative Banks Development Agency CBDA which was established to regulate promote and develop cooperative banking including deposit taking and lending cooperatives. And then the third entity that is under the audit committee of the National Treasury is the Accounting Standards Board.

So in March 2011 my term as Board member of the ASB was renewed for a period of three years. I was then elected as the Chairperson of the ASB effective from 26 March 2012. Now the Chair of the ASB also chairs the management committee of the ASB due to the small size of the public entity. However, this brought about an anomaly whereby I was the Chairman of the ASB while chairing the National Treasury's Audit Committee which included ASB matters and this goes against good corporate governance principle. Therefore the solution to the anomaly was that the ASB Audit Committee sessions were chaired by different member of the National Treasury's Audit

Committee which at the time was Mr Joe Lesejane.

CHAIRPERSON: Can I just, I just wanted to find out whether the GPAA had anything to do with the mandates and investments from the GEPF and the PIC?

MR VUYO JACK: So the GPAA is only the administrator where they collect from the employers and disburse administrations in terms of benefits and so they do not set the mandate for the PIC. So the GEPF is the one that will then set the mandates of the funds now that are under their investments that are collected by GPAA.

MR EMMANUEL LEDIGA: Follow up question there Mr Jack, the GPAA is part of GEPF or is it a separate division run by National Treasury?

MR VUYO JACK: So it's what we called a Government component which means it's a component of the National Treasury, it is not part of the GEPF because the GEPF is governed by a separate legislation so it's a component which just means its part of National Treasury.

MR EMMANUEL LEDIGA: Alright so meaning that the GEPF basically runs the money, the investment side of that and the GPAA runs the administration side and these are separate companies with separate CEO's and all that, is that correct?

MR VUYO JACK: Absolutely Sir, the GPAA would have its own CEO and then there'll be a principal officer in the GEPF and their mandate is to manage the assets so that when the liabilities come through they have enough assets to be able to fulfil the liability so the functions are separated.

ADV JANNIE LUBBE SC: Mr Commissioner two issues, I've requested previously that the Commission ask the questions later in the evidence, Mr Jack has absolutely no problem that at any stage during his evidence that you are welcome to interrupt him and ask questions.

CHAIRPERSON: Yes, thank you.

ADV JANNIE LUBBE SC: And secondly, it is a bit of an elaborate introduction but for me it was important to place the evidence before the Commission to show the extensive and in-depth experience of the witness not only in corporate governance but in the financial world in which the GEPF and the PIC operate. So he will now … (intervention)

CHAIRPERSON: I suppose in other terms he's like an expert witness?

ADV JANNIE LUBBE SC: Absolutely.

CHAIRPERSON: Yes and the qualifications are important, yes.

ADV JANNIE LUBBE SC: You can now start dealing with Public Investment Corporation paragraph 14.

MR VUYO JACK: Okay so in 2012 November I was requested to provide my CV by Mr Dondo Mogajane who indicated that the Minister of Finance then, Mr Pravin Gordhan wanted to put my name forward for the Board of the PIC to cabinet. And the PIC is a South African State-Owned Entity with the Minister of Finance as its shareholder representative and it was established in 1911 and the PIC is one of the largest asset managers in Africa and they manage 87% of the GEPF investment portfolio directly and the remainder through local and international external managers.

I was appointed as an independent non-executive director of the PIC in December 2012 by cabinet. During the course of 2013 I was also a member of the following committees: Audit and Risk Committee; Social and Ethics Committee, those two committees. When I joined the PIC Board Mr Ignatius Sehoole was also a Board member and he chaired the Audit and Risk Committee and the Private Equity and Africa Fund Investment Panel. In November 2013 Mr Sehoole's term as a Board member expired and new Board members were appointed by cabinet. The realignment of the Board members to different sub-committees of the Board took place on the introduction of the new members of the Board.

ADV JANNIE LUBBE SC: Can you just for the record state who the Deputy Minister of Finance was at that stage and also Chairperson of the Board?

MR VUYO JACK: At the time Mr Nhlanhla Nene was the Chairperson of the Board and the Deputy Minister of Finance in South Africa.

ADV JANNIE LUBBE SC: Thank you.

MR VUYO JACK: And in 2014 after the appointment of the new members of the Board I was appointed to Chair the following committees, firstly the Audit and Risk Committee and then secondly the Private Equity and Africa Fund Investment Panel. In addition to Chairing the above committees I was also a member of the following committees, a) member of the PIC Directors Affairs Committee by the virtue of being the Chairman of the Audit Committee, secondly member of the PIC Investment Committee by the virtue of being the Chair of the Private Equity and Africa Fund Investment Panel and then thirdly I sat as a member of the PIC Social and Ethics Committee, fourthly I was a member of the PIC Human Resources and Remuneration Committee and lastly member of the PIC Property Committee.

I rationalised my appointment to the PIC Board as being on the strength of my experience as the Chairperson of the National Treasury GPAA CBDA and ASB's Audit Committee during my tenure at the National Treasury. I discerned that my appointment was strategic for the National Treasury in order to have an oversight on the exposure of the PIC since there was already oversight on the pension contributions and claims at GPAA. From a risk and governance point of view oversight on both pension fund contributions and disbursement by GPAA and the contributions deposited in the Government Employees Pension Fund GEPF but was managed by the PIC enabled an indirect eagle eye oversight for the National Treasury.

Oversight of the PIC was critical in managing Government's risk in that it sought to ensure that the GEPF never has to face a dreadful scenario where it can incur pension liabilities that exceed its assets to a point where it would not have enough reserves to pay out to the beneficiaries. In this unthinkable scenario the National Treasury would have to intervene because of the defined benefit nature of the pensions covered by the GEPF where Government takes the ultimate risk for the nett liabilities. This view is confirmed in the preamble of the PIC Commission terms of reference which state and whereas the Government is the guarantor of last resort for the obligations of the GEPF a failure of the PIC or a failure of any significant investment for the GEPF exposes the Government to substantial financial vulnerability. Oversight on GPAA was also crucial since it ensured that from a collections perspective the administration was robust and thorough so that the PIC has assets to manage on behalf of the GEPF, the abovementioned oversight, at both the PIC and the GPAA, where my strategic intent in my playing the governance roles in general with the objective of minimising Government risk.

So prior to my appointment to the PIC Board I had the following business connections with the PIC; in 2010/2011 I interacted with the representative of the Isibaya Fund to understand their funding model since I was interested in renewable energy using biomass as an input to generate electricity, biodiesel and biogas. The company which I used to pursue my stated interest was Uhuru Energy where I was a minority shareholder. B) During 2011 Empowerdex provided advisory services to the PIC vis-à-vis how can the PIC optimally use its BBBEE facilitator status that was granted to it by the DTI. And lastly, Empowerdex also provided rating services to the PIC during 2011/2012 financial year.

The abovementioned transactions were the only business dealings I had with the PIC before being appointed as a director on the PIC Board. Uhuru Energy was never funded by the PIC ultimately. Empowerdex did not directly provide any advisory services to the PIC while I was director and thirdly the rating services that Empowerdex offered to the PIC were terminated as soon as I became a director, this was recorded in the minutes of a Board meeting during 2013, I cannot just recall which Board meeting was that but it was part of the resolution that Empowerdex will no longer provide the rating services.

ADV JANNIE LUBBE SC: We come now to an important part of your evidence and that is the Deloitte's Climate Survey. Mr Commissioner there is an executive summary of that survey before the Commission already and Mr Jack will deal with that.

MR VUYO JACK: So Deloitte's was commissioned in August 2013 to conduct a survey of the working conditions at the PIC through staff interviews, 134 staff members were interviewed in the process. The reason the Board commissioned a survey was because there was mounting tensions in the various sub-committees and Exco. Some of the pertinent findings of the climate survey presented to the PIC were as follows; that there was a fear of culture and that the PIC was not unified, there was lack of strategic direction, management by fear and poor people management, management does not have employee's best interest at heart, blame shifting and poor decision-making abilities and the PIC management does not address problems and there were constantly moving goal posts. So given the gravities of the issues raised through the Deloitte's climate survey the Board decided that one way to tackle the issues was to conduct a governance review which was to be led by the head of Audit and Risk Committee Mr Ignatius Sehoole. In 2013 KPMG was commissioned to undertake the governance review.

CHAIRPERSON: Can you just elaborate on moving goal posts, what do you mean by that?

MR VUYO JACK: So from the interactions that the staff had with Deloitte's as they were gathering information about the survey is that once you set a particular goal to saying this would be the target and if that is met and then to say no actually this should be the target because this could have been, it was not a stretched target in the first place and in terms of also processes you were not sure in terms of if you're looking at the delegation of authority what version are we using and are we using this version, so there was issues around version control and that's what part of the moving goal posts because some of the decisions that were made were subsequently changed and moved to other things and this was just the sentiment expressed by staff as Deloitte's engaged with them.

MR EMMANUEL LEDIGA: Question, who were the people in the top leadership there at that time?

MR VUYO JACK: So you had the CEO being Mr Elias Masilela and then you and the Chief Investment Officer being Dr Dan Matjila and then you had the Chief Financial Officer being Ms Matshepo More and then you had other members of Exco the Chief Risk Officer being Dr Zulu Xaba and then you had the Chief Operating Officer Ms Petro Decker and so those were the people that were part of Exco.

ADV JANNIE LUBBE SC: Can you just explain to the Commission when you rate the power of these people who would you rate as the most powerful person or persons in the Executive of the PIC?

MR VUYO JACK: Well it was the CIO Dr Dan Matjila by the virtue of him being able to have quite a considerable amount of say over the investment and investment being the critical business of the PIC and of course then the CFO who controlled the disbursements of funds to those two were the most powerful executives within the PIC.

ADV JANNIE LUBBE SC: And perhaps just for the record if you can briefly just explain what exactly is a climate survey, it's really not to do with climate in general but what is it in the corporate world, what is a climate survey?

MR VUYO JACK: A climate survey is a tool that is utilised to be able to assess the working conditions, the feeling of the people and in terms of how is the system working and is the cohesion in the working as opposed do you have the best companies to work for measuring the beautiful things that are happening within the organisation so the climate survey you will really need when there is tension, when there is infighting where you want to be able to bring some cohesion and as the survey therefore allows you to be able to understand what are the issues that are coming up so that you can be able to address them in a proactive way.

ADV JANNIE LUBBE SC: Is this survey done online?

MR VUYO JACK: It was done I think through, there was – I'm not 100% sure because I wasn't part of the, but it's a combination of both online but also interviews and there's focus groups that were held with the different divisions and as the results show there was engagements with the operations there was engagements with the investment team and so forth.

ADV JANNIE LUBBE SC: Thank you, please proceed with paragraph … (intervention)

MR EMMANUEL LEDIGA: Question.

ADV JANNIE LUBBE SC: Sorry.

MR EMMANUEL LEDIGA: In a structure where you got a powerful CIO, COO and a CFO what does the CEO do really? What are their powers you know? What can they decide on?

MR VUYO JACK: It's a very, very important question to say what is then the function of the CEO. When you look in the most ideal structure the CEO should be in charge of the strategic direction of the entire organisation and when you look at the organisation it would consist of having – of the course the investment portions is critical but there is also the corporate function in terms of engaging with the stakeholders, engaging in terms of the finances and the operations aspect.

So the CEO should have the ultimate responsibility for all these areas. However in terms of the other executives they need to be accountable for their portion on investments for the portion – as the CFO in terms of meeting the internal controls and making sure that the financial controls that there is no loss of money.

So the CEO provides overall strategic direction but then the others are more hands-on in terms of a day to day managing the different portions of them.

MR EMMANUEL LEDIGA: Does it mean that the CEO can veto some actions of say the CIO?

MR VUYO JACK: Well it depends on the kind of delegations of authority. In other institutions you have the power being delegated to the CEO for everything which means that he then sub delegates his power to the CIO.

By doing that that means therefore he can veto what the CIO because the board would have delegated the power to the CEO because at the end of the day when there is trouble whose neck is on the line? It's the CEO's. Therefore you need to be able to give him the power to make decisions if his neck is going to be on the line.

So under normal circumstances the board then says you as a CEO are in charge of the operations here and therefore you can't do all of this yourself so you have to delegate some of your powers to the CIO, some of the power to the chief operating officer and the chief financial officer.

MR EMMANUEL LEDIGA: So this is a bit different then to the SABC where the COO had some delegated powers and it looks like the CEO couldn't change some of them.

Would it be true?

MR VUYO JACK: So I'm not familiar in terms of the delegations of authority framework. However if the COO of the SABC was delegated, who delegates the power is the board. So under normal circumstances the power it lies with the board and they have the ability to delegate it to the executive that they see fit.

But under normal circumstances those powers are delegated to the CEO. So if one maybe had to peruse the SABC delegations of authority it might be given whatever scenarios that the board deem fit for them to delegate the powers or certain powers to the COO. But it's definitely not the best practice.

MR EMMANUEL LEDIGA: That's clear thank you. Thanks.

MR VUYO JACK: "So I then suggested to the board given the climate survey from

> Deloitte's that we should take leadership as a board in remedying these issues since the buck stops with us as the last link in the reporting chain. I proposed to the board that we confront the issues through a PIC innovation lab. The idea behind the innovation lab was to address the staff issues in a proactive manner rather than taking a reactive stance. We all knew what the problems were and needed an innovative way to address them. So the innovation lab was designed to cover both technical knowledge and human resources issues within the PIC in line with the issues emphasised by the climate survey. Its objective was to give meaning to working at the PIC hence the theme it must mean something to work at the PIC. I then drafted a presentation to the board. It was approved with the resolution to say we must go ahead and address some of these problems in an innovative way."

ADV JANNIE LUBBE SC: You are later dealing in your evidence with the practical implementation of the lab. Can you just at this stage explain to the Commission what exactly is this innovation lab approval?

MR VUYO JACK: So the innovation lab was the staff having expressed some of the issues and one of the outcomes was that the board doesn't actually have a clearer understanding of these issues and therefore there is a gap between the staff and being able to highlight and escalate some of the issues to the board.

So the lab was to then enable to create the space for them to be able to firstly air their views because when you look at the people that are employed by the PIC they are highly qualified professionals that have really good insights. That have really good grasp of issues. But if they do not find place to be able to actually give those views and give suggestions you find that they get lost somewhere.

So the lab was a platform for them to be able to ventilate their issues but also to come up with solutions and also there were certain things that were lacking. When you look at an investment corporation there are certain skills that you would expect there. For example you would have – you'd expect an understanding of what is a business model.

So when you look at investments and you have to ask what is a business model and the latest trends of business models you need to be able to unde4rstand that. You expect them to understand fully on the issues of transformation and Broad Based BEE because those are key requirements before you can make investments.

But also it was important for them to understand the national development plan to saying how do we actually practicalise this. So there wasn't that kind of platform on a day to day basis. So therefore by taking them away from their normal day to day thinking and be able to provide the with a platform to be able to express these ideas and co-create solutions and make sure that risks are covered within the PIC you'd be able to do that.

But also you do it in such a way that you also engage in a meaningful way so it's not only technical but you also covering the human resources issues that were highlighted in the climate survey of the PIC and how the processes worked – how the interventions worked in the lab. We would have a three hour to four sessions whereby we would present certain themes and highlight certain concepts and then engage with the staff so that you unleashing this kind of energy within them.

MR EMMANUEL LEDIGA: I just need to go back to my last question about the power of the CIO versus the power of the CEO alright. So did the delegations give more power to the CIO during that time ...(intervention).

MR VUYO JACK: Absolutely.

MR EMMANUEL LEDIGA: Just elaborate a bit there.

MR VUYO JACK: Absolutely. So when you evaluate the delegations. I mean there is different delegations. You'll have delegations for listed investments. You'll have delegations for unlisted and of course for properties. In most instances – I mean it's a factual document so when you look at this you'd find that the columns for the CEO in most of the different powers that were outlined it wasn't filled as much.

When you look at it was mostly the CIO being the final authority on certain matters but then the board above certain levels would be the final approver of deals. When it came to investment kind of decisions even informing the CEO afterwards – after the decision has been made and also the powers of risk it wasn't as strong.

So those were the kind of issues that we were grappling with to saying now if and hence going later when we look at how the whole governance manual of the PIC is that you need actually reflect the true power of the CEO and you must also put it in the delegations and how you put it in the delegation of authority and the acceptance of the accountability.

So those were some of the findings that we also wanted therefore to be able to push through.

MR EMMANUEL LEDIGA: (Indistinct).

MR VUYO JACK: Ja I'll come to later.

MR EMMANUEL LEDIGA: Alright great stuff excellent.

MR VUYO JACK: "So when the proposal of the PIC innovation lab was recommended by the Directors' ...(indistinct) committee and approved by the board some managers suggested that the first session to ideally introduce the concept should be at the management getaway that was held in October 2013 and this was held in Magaliesburg. I conceptualised the launch to be an interactive musical experience that would bring out the issues mentioned in the climate survey at the ...(indistinct) level for management. I hired a band at my own cost – the musicians in order to expedite the process of launching the PIC innovation lab and to build on the excitement exhibited by most of the staff members. After the management getaway most senior managers were quite encouraged and an expanded list of sessions were planned for the three offices of the PIC. That is for the Johannesburg office, Durban office and the Cape Town office and also the sessions included the PIC property team."

ADV JANNIE LUBBE SC: Can I interrupt you there as I read what you now – in paragraph 29. It seems to me that the outcome was mostly positive.

MR VUYO JACK: Absolutely. There was an air of excitement and the management was actually looking forward to it and the emails and the preparations and giving them part of the exercises was you need to watch the movie The Devil Wears Prada and be able to analyse the movie to say how do you see yourself in that movie working within the environment.

So there was quite a lot of excitement with that kind of approach because it was saying how do we use the things that people know so well to actually teach them lessons on what it means to work for the PIC. So the first few innovation lab sessions were conducted in Johannesburg and Cape Town providing staff with a platform to vocalise issues they have in general within the PIC directly to the board of directors thus creating robust rapour between employees and board members.

Some of the staff feedback that came out of the first session held on 13 January 2014 was as follows. This was a great process of self discovery. However the presence of executives did not allow for open discussions. Management can be quite defensive about comments made and that the idea was fresh and different from previous interventions and that more similar sessions should be conducted with a bigger forum to get a comprehensive picture of how things could improve.

So in a nutshell the early sessions of the PIC innovation lab were quite a hit with the staff to the point though that some Ex Co members were not happy with the energy that was unleashed as a result of these sessions. As a consequence these sessions were terminated permanently without credible motivation given to myself or the board.

At the same time the ...(indistinct) governance review process that was underway contributed to the unhappiness by some Ex Co members.

ADV JANNIE LUBBE SC: Is it possible to tell the commission who are the Ex Co members unhappy with this energy unleashed at these sessions?

MR VUYO JACK: So it was mostly Dr Dan Matjila and to a certain extent it was Ms Matshepo More. The sessions – the CEO participated in the sessions – Mr Elias Masilela and he thoroughly enjoyed them and Petro Decker enjoyed engaging in the sessions so when the email came to say these are permanently halted because of some concern raised it was mainly concern arising from Dr Dan Matjila.

ADV JANNIE LUBBE SC: What was the boards' reaction to this?

MR VUYO JACK: It was shocked but it wasn't really – it wasn't because of the atmosphere that's why parallel there was a governance review taking place and were also running with the lab sessions. So the attention mostly then fell on the issues around the governance review which had then detail in much more detail later on.

So the board did not act on that right then.

CHAIRPERSON: Who did the governance review process?

MR VUYO JACK: So later in this testimony then I outline the history of the governance review and then perhaps I can clarify much further on that.

MS GILL MARCUS: But perhaps just if you could Mr Jack. Who signed the authorisation or the instruction to stop the process?

MR VUYO JACK: It was Ex Co and ...(intervention).

MS GILL MARCUS: Ex Co generally because your CEO participated in the process so was it an Ex Co decision from a meeting?

MR VUYO JACK: Yes so it was an Ex Co decision from a meeting.

MR EMMANUEL LEDIGA: Mr Jack just a broad question about leadership in general. Some leaders lead by fear you know and some leadership models will say let us lead by charm or other things. Why do you think there was this leadership by fear you know from your point of view? Couldn't there be other leadership models that could have been used?

MR VUYO JACK: I guess when you look at ...(intervention).

MR EMMANUEL LEDIGA: Is that a fair question?

MR VUYO JACK: I'll try to answer as far as I can. There was history to this tension that preceded my joining the board and probably it happened while Mr Brian Molefe was the CEO and there was a COO and Dr Dan I think at that time was the CRO.

So those tensions started simmering then and therefore in order to be able to take charge that perhaps part of the ways to take charge was the utilisation of tactics that might ultimately educe fear because of scars from the earlier battles.

So this is just my perception of the scars which could have lead to that current atmosphere of begin able to be always watchful who is going to stab you in the back. Being always ...(indistinct) legal means in terms of rather than substance in terms of do you do this process from one, two, three to the tee *vis-à-vis* to saying what is needed in the moment rather than just being only hamstrung by the process so the leadership that will then deal with the issues of substance rather than the process issues.

So when you have leadership I fear processes become important because then if you miss one step of the process you could be taken out. Therefore people always therefore were fearful and therefore they make sure that they understood process because if you didn't understand process you could actually lose your job.

So that was a seemingly pervasive culture and that came out with the interviews that we did. Like a memo for changing a light bulb in a properly you needed somebody to have a memo to say I need a memo to change this.

The memo will take 30 days because it would be sonnet back to say no, no, no this is not the right language that you used so let it be taken back. The light bulb is still not fixed and you have to follow the rules to the tee and if you don't it give rise to a process of being dealt with at the moderation committee and so forth.

So that culture of fear of adhering too much to the rigidity of the rules rather than saying give the maintenance guy the ability the ability to by a memo – I mean by a light bulb because the tenant is needing that now. That power was not there and there for it attest to the kind of leadership of rigidity or the rules rather than the substance of what is needed to actually fix the light bulb.

MR EMMANUEL LEDIGA: You know I would take that you know people at the PIC go to leadership courses – advanced leadership courses I mean which could help a bit maybe. Is that true?

MR VUYO JACK: So the kind ...(intervention).

MR EMMANUEL LEDIGA: Harvard Business School ...(indistinct) my school whether they go to such courses?

MR VUYO JACK: Well it would be the more focussed had been on more technical training so for example understanding private equity, understanding venture capital. So the softer issues of leadership that was not as covered as much in as far as I could tell in my – as a committee member of the human resources and the remuneration committee there was more focus on the technical rather than the softer side.

Hence when we looked at the innovation lab we gave room for people to understand, to be in touch with their softer side and be able to have a holistic approach which is why it was welcomed because that was solely lacking – the sole was solely lacking.

> "So in November 2013 talking about the governance review history new board members were appointed since the outgoing board members had exceeded their tenure on the board. I was then selected to chair the audit and risk committee as well as the private equity and Africa fund Investment panel which was in charge of managing all the private equity and Africa Investment deals. Prior to being elected the chairman of the audit and risk committee Mr Ignatius Sehoole whom I replaced as a Chairman had

engaged KPMG to conduct a governance review in response to the Deloitte climate survey result. However there were issues raised by the Executive Directors in relation to the procurement process that was followed.

When I became the Chairman of the audit and risk committee I drafted and submitted to the board a memo to approve the approach that we were going to take to the governance review and ...(intervention)."

ADV JANNIE LUBBE SC: Sorry can you just tell the Commission who were the executive that complained or raised issues about the procurement process?

MR VUYO JACK: It was mainly the CFO Ms Matshepo More to saying that the process was not followed and therefore could constitute potentially any regular expenditure.

ADV JANNIE LUBBE SC: Thank you.

MR VUYO JACK: "So the KPMG engagement letter was signed in January 2014 and their budget amounted to R866 000,00 excluding VAT. I then stipulated that we may continue using KPMG services to complete the work they had already done as part of phase one of the governance review and perhaps have Mr Sehoole on an advisory capacity if need be since he had valuable knowledge of some of the issues as the outgoing Chairperson of the audit and risk committee. But I also suggested that we employ a business writer Mr Malcolm Ray as a scribe to assist myself with audit and risk committee reports as part of phase 2 of the governance review. I drafted the governance review memo with recommendation to the board that they should approve a budget not exceeding R2-million to cover the cost of the governance review.

In addition the PIC should approve the deviation from normal procurement process to appoint KPMG and any other relevant service providers required for the completion of the governance review so that we were compliant with the PFMA legislation. The deviation from normal procurement normal procurement process was requested due to the following.

1. The sensitive nature of the governance review exercise and
2. The urgency of getting the governance review done due to the gravity of the issues that was raised by staff.

Once the memo was approved by the board I then asked KPMG to provide me with interim reports that they had completed to date. In reviewing the reports I became aware that no non-executive board members were interviewed for the KPMG self assessment tools only staff members were interviewed.

The reports also focussed more on high level processes rather than on strategic issues raised with the Deloitte's climate survey. So from this vantage point I could not utilise the reports at a strategic level to come up with substantive recommendations to the board about what needed to change. As far as fulfilling their mandate in relation to the engagement letter KPMG did deliver even though the report was inadequate in addressing the root causes of the governance issues faced by the PIC. More over the report did not encompass all operational divisions of the PIC due to the resistance by some divisions. Therefore given the draft report there was a scope restriction on the investment portions of the PIC because they were not able to set up appointments with the investment team which was a problem for the exercise since Dr Dan Matjila did not meet KPMG not even once in this exercise.

So as an aside in 2013 while serving as a non-executive member ...(intervention).

MR EMMANUEL LEDIGA: Question.

MR VUYO JACK: Okay.

MR EMMANUEL LEDIGA: So this is a board process – I mean it's mandated by the board.

MR VUYO JACK: Yes.

MR EMMANUEL LEDIGA: So if people do not want to participate in that process what were the means to ensure that they do participate?

MR VUYO JACK: You have to escalate it. You have to escalate to the Chair, you have to escalate it to the shareholder and in my testimony I talk about the escalation processes that we then undertook and the results thereof.

MR EMMANUEL LEDIGA: Okay alright we'll get there okay thank you.

MR VUYO JACK: So while serving – now talking about the Davis Tax Committee and how it actually fits into the picture.

"While serving as a non-executive director at the PIC Board I was appointed to be a member of the Davis Tax Committee. One of the sub-committees I was allocated to was tasked with analysing and preventing base erosion and profit shifting. Within the sub-committee I focussed on the issue of economy and its tax implication. I look at the strategic ways that would allow SARS to capture tax from electronic sales of international online companies such as Amazon, Apple, Google nod so forth. In coming up with a suitable tax regime for digital companies I had to conduct research on world best practices and also consider double tax agreements that existed between South African and foreign countries. So phase one of the project involved designing a reporting framework and research methodology.

Phase two was data collection through interviews with government officials, SARS officials and NGO's and the IT – you know information technology sector as well as local and international IT based firm. Now back to the governance review."

ADV JANNIE LUBBE SC: Before you get to that. Mr Commissioner can I ask for the tea adjournment at this testate and can I ask for a twenty minute adjournment I have some critical admin problems to attend to?

CHAIRPERSON: Certainly. We'll adjourn until 11:20.

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV JANNIE LUBBE SC: Mr Commissioner I plead guilty. The five-minute that we started late is as a result of my problems with admin, but we are ready to start.

MR VUYO JACK: Thank you. Back at the PIC, Governance Review Process, as a Chairman of the Audit and Risk Committee are then initiated sessions with staff from the different divisions within the PIC, since there was a missing link between the Deloitte Climate Report and the KPMG Governance Report. So using a music analogy in my opinion the Deloitte Climate Report followed a struggle/revolutionary music approach in that it tried to capture everybody's perceptions in a manner that made sure that everybody's voice is heard, but did not comprehensively cover solution to those issues raised.

On the other hand, the KPMG Governance Review took a more classical approach since it was based on templates and generic surveys, not really tailormade for the issues at hand fully. So therefore my approach in dealing with the Governance Review issues took a more of a jazz music approach where I needed to establish a sweet spot between the structured approach captured in the KPMG Report and the spirit and the soul contained in the Deloitte's climate survey report. So then in March 2014 we kickstarted the interview sessions.

These sessions were not easy as there was a pervasive atmosphere of fear amongst staff in speaking out on the pertinent issues and problems faced by the PIC. They feared intimidation and revenge from senior managers.

CHAIRPERSON: Can you explain to the Commission Mr Jack at what level did you notice this fear?

MR VUYO JACK: Across even other Exco members that were participating were also showing those symptoms of fear and potential intimidation and I actually sing aloud, especially the Chief Risk Officer at that time was Dr Zulu Xaba who actually was feeling that level of intimidation and so forth, despite the fact that he is also an Exco member. And what I did then, I provided them with the assurance that these sessions would be robust and honest, with any comments not being attributed to a particular individual.

Furthermore, I promised that I will do my utmost best to provide cover when necessary to the staff that told the truth. I truly needed to cover their backs because they could lose their livelihood if there was revenge of any sort from implicated parties. A connection of trust was built with the participants who were able to lay out the problems within the PIC in a comprehensive manner. The credibility of the stories also had to be corroborated by factual evidence. It must be noted that there were certain things some people said that were not corroborated by evidence, which decreased the credibility of their version of the problems.

In these engagements it was myself accompanied by Mr Malcolm Ray, who I used as a scribe to write down his notes, but no audio or visual recording of the sessions took place. These sessions were really, really tough. And I took a very incisive approach, mostly cutting the chase just to focus on the facts. Some people cried as they relayed their experiences within the PIC. Dr Zulu Xaba, the Chief Risk Officer even resigned later in the year as a result of the depth and robustness of these engagements that we had in the sessions, and beyond these sessions as well.

The result of these sessions sent mixed messages. Firstly, to the broader staff it allowed them an ability to offload their issues and come up with constructive suggestions. However, on the other hand some of the Exco members, these sessions sent a message of the witch hunt. And as a result, they were apprehensive of engaging based on the feedback received from staff about the intensity of the situation. So it was really mixed kind of feeling. As a consequence …

CHAIRPERSON: Sorry you testified that some Exco members did take part in these sessions.

MR VUYO JACK: Absolutely. So the CEO took part in the sessions, the Chief Financial Officer took part in the sessions. Petro Decker, the COO took part in the sessions. And the only exception was Dr Dan Matjila, he never participated in the sessions.

CHAIRPERSON: And what was the reaction of these other executives that did part? Was it positive or negative?

MR VUYO JACK: Absolutely. So when we engaged for example on the finance issues, we did take quite an incisive look and Matshepho at the conclusion of this and she was really constructive in the engagement, Ms More and she found it quite useful because certain perspectives were offered that could actually improve some of the work that they were doing. And of course the CEO ...[indistinct] that was Mr Elias Masilela. He also found them quite useful in being able to then source out some of the constructive recommendations that could come from this process.

So as I continued then to say as a consequence, Dr Dan Matjila never attended a single session of the Governance Review Process of KPMG and also the process that I was running of the PIC Audit and Risk Committee. He then requested to be provided with the engagement letter from KPMG and what scope of work did they or were they engaged on which he was subsequently furnished with in the spirit of transparency. In contrast, Mr Elias Masilela, the CEO at the time, participated constructively in the engagements from the Management Getaway, the PIC Innovation Lab and the Governance Review sessions.

And Ms Matshepo, More, also participated constructively and made good suggestions to the finance sessions who held with her team. In March 2014, I also wrote a memo to the Deputy Minister who was the Chairperson of the Board, Mr Nhlanhla Nene requesting the Chairman to approve that I travel to the United States of America in Canada to meet International Pension Funds and Development Financial Institutions and Asset Managers. This would help me establish what would be the best practices are in Governance Models by interacting directly with these organisations. I further suggested to the Chairperson that the PIC should share cost of my international trip with the South African Revenue Service because of my work with the Davis Tax Committee on Digital Economy issues and that plan was that the PIC would pay for the trip and then claim back half of the expenditure from the Davis Tax Committee.

So the memo that I then wrote contained a list of the companies that I had set up appointments with including CalPERS, International Finance Corporation which is part of the World Bank and CalPERS is the largest pension fund in the United States based in California. And the Ontario Teachers Pension Plan it is also one of the big pension funds that operate like the Government Pension Employees Pension Fund. Black Rock, it is a big asset manager that manages in excess of a trillion dollars of

...[indistinct] management and GRISIIS which is a – it looks at governance matrix in terms of how to measure governance in terms of environmental, social and governance kind of models.

And that was the visit in April 2014. An individual testimony I outlined those dates and who are I actually met in these engagements. Upon concluding the data gathering process and analysing the data a report was drafted and completed in May. And this was a draft report just putting all these things together. In addition to the international visits undertaking, an extensive document review of the internal which is PIC's documents and external sources took place in order to construct what is the ideal governance model that the PIC needs to consider.

MS GILL MARCUS: Sorry, Advocate Lubbe, can we be sure that the Commission gets copies of those reports?

ADV JANNIE LUBBE SC: Absolutely.

MR FRANS LEKUBO: Question. During this process couldn't the management maybe think that you were encroaching into their own turf in terms of doing these issues?

MR VUYO JACK: Absolutely. That was the feeling that certain management actually exhibited and also they highlighted as one of their concerns. Yes.

MR FRANS LEKUBO: And how was that tackled? Or you know resolved?

MR VUYO JACK: So in terms of – and I guess I do cover it later in, in the testimony how we actually tackled that and also giving them the room to be able to outline their concerns and be able to then feel comfortable to saying are their concerns taken care of in terms of the workshops that we did after the draft report was compiled. So when we then look at the draft Governance Review Report findings, so what I cover in my statement is just the highlights of this.

We did construct – it is about 172 pages document which was a draft document, highlighting all the critical areas, what the problems were and also the solutions. But what I just cover in the next part of my testimony is just the highlights that we picked up from the engagement.

MS GILL MARCUS: Just for clarity, this is the KPMG report you are referring to?

MR VUYO JACK: No.

MS GILL MARCUS: Which report?

MR VUYO JACK: So there were two reports. So the phase 1 reports were the KPMG reports and then this was the Audit and Risk Committee reports the …

MS GILL MARCUS: This was your own reports?

MR VUYO JACK: Yes.

MS GILL MARCUS: Your internal reports?

MR VUYO JACK: Yes.

ADV JANNIE LUBBE SC: Mr Commissioner can I just ask if Ms Marcus would also would like to have sight of the KPMG report. We will arrange for that to be submitted.

MR VUYO JACK: Okay. So looking at the draft Governance Review Report findings, the draft Governance Review report looked at the interim findings and urgent remedies or interventions. The risks identified after the staff interviews and the documentary review necessitated urgent action on the Board's part. An extract from the report I compiled summarises the interim findings as follows: In terms of our mandate for this review, challenges of delegated authority, accountability, transparency and oversight arose as the scale and range of assets under management by the PIC grew.

The questions of the agility (input and implementation) of the PIC, it's structures and Committees therefore rested on the assumption of a lack between governance system and internal human and infrastructure capacity on the one hand and the fiduciary duties of the PIC on the other. On the evidence of the review, the

Organisation has adapted to and embed a tightly controlled executive structure rather than agile and flexible governance model, adequate to the complex challenges of expansion.

Thus, our findings and analysis of operational issues and organisational capacity have largely focussed on the growing disconnect between operational functionality on the ground, including authorities and decision making powers, administrative capacities, stuffing and technical capacity of the PIC Line Department and a centralised and evidently unaccountable executive leadership. These assumptions were tested across the Board and found to be true as a motive and modus operandi in at least one respect.

The PIC's remuneration policy and grading system and how the latter are manipulated by the executive leadership to maintain control. The result of contradictions between the PIC's fiduciaries duties and it's actual authorities and governance practices in the day to day operations of the organisation, is a confusing lack of clarity about governance, decision making and accountability throughout the organisation.

Arguably executive leadership at the PIC is now subject to charges of gross dereliction of the PIC's fiduciary obligation in exercising the powers conferred on the Executive by the Board on behalf of the stake shareholder and stakeholders. In other words the current governance practice fundamentally encourages a rule by executive committee and therefore encourages tension between fiduciaries, dilutes accountability and fosters suboptimal decision making. We make this charge without prejudice and on the basis of experiences of some ED people whose views were sought during the interviews.

For if the key challenge we tried to understand during the review was the

PIC's failure to respond to challenges of expansion. There were several nested themes that arose from the findings which we conclude this review. First, delegation of authority. 2. Leadership. 3. Principle agent relations. 4. Fiduciary duties. And 5. Specificity and monitorability. First issue, …

MR FRANS LEKUBO: Question. So the tightly controlled centralised structure of the PIC, has that been around for decades or is that is something that came later? Do you know?

MR VUYO JACK: Its been evolving. Since corporatisation, because before corporatisation you had Commissioners. And therefore there was a CEO, so there was no Board kind of structure. So the Commissioners had the power and the CEO was then implementing that. Now with the corporatisation in 2005, that is when the delegations of authority had to be more formalised. So this delegation of authority over the years was a work in progress. So it was updated on a regular basis so it reflected the changing times as the years go or went by.

MR FRANS LEKUBO: Yes, but the structure seems to have still been centralised and tightly controlled even with the changes coming through. Does it seem so?

MR VUYO JACK: Yes. So you would have in, on paper this is Exco's powers, but in actual implementation that is where the control, the centralised control came through. So for example if you had particular delegations there would be an overriding of certain of those delegations as noted by some staff that then gave rise to that centralisation of power.

So if I had a delegation of a X amount but then I needed to report to the – and I could approve that transaction, however in practice some of the findings came out that says, I have – one of the members of staff says, I have this particular delegation but it can be overruled by the CIO. So on paper I do have the ability to make the decision, but if I make the decision that goes contrary to Exco, it would be dead in the water because Exco could be able to reverse that.

And hence the moving goal post comment that came through is that I might have the delegation, but if the delegation is not in line with a particular view of the senior people, it might be actually in substance taken away. But on paper it is there, I can exercise it.

MS GILL MARCUS: Just again for clarity and sequencing this report you are referring to and that you are elaborating on is 2014?

MR VUYO JACK: That was May 2014. Yes.

CHAIRPERSON: Tell me, do you view that as a bad thing if somebody has authority to decide on something and somebody above them would say, no, no, no, I don't agree with this. Is that a bad thing or a good thing?

MR VUYO JACK: So if for example you have a Principal and you give somebody authority, you confer you belief that they have the ability to exercise that authority, so you are going to trust their judgment. And therefore if it is based on principle that you have to make the decision, and yes at the top if the disagreement is based on a principle, then it is good. But if its based on something that cannot be tangible, that cannot even be traced in writing, then it is something that becomes an area of concern.

And also what you want to have in your delegation of authority is to be able to say once you have taken the decision, you need to be able to report it to the people at the top so that they are able to make sure that it is in line with the entire strategy. And if it is not in line with the entire strategy, then they will have to be able in rare circumstances override it. But if it becomes a norm to override your delegations, then its sending a signal that we actually do not trust your judgment with this delegation and therefore consequences of that, that delegation needs to be removed if that in a normal organisation.

So when then we deal with the first issue, the incorrect delegations of authority. There are a number of governance and structural issues which confound clear fiduciary decision making and authority and reflect a highly fragmented and dysfunctional system. There are for example several fractured lines related to issues such as delegation of authorities, delegation of duties and related risks in the oversight and reporting processes of the organisation.

The result is a continuing process of friction and abrasion that often manifests intentions driven by a culture of fear that runs along reporting lines as a modus operandi by executive leadership to maintain narrow agendas at the cost of the wider interest of the PIC, that is its client and shareholders. Therefore, the lack of clarity in the delegations became an issue whereby a ground for the conflict. And then 2, weak and unaccountable leadership. Overlaying all this is a crisis of leadership and challenge of purpose.

As noted above, lack of clear authority also equates to lack of clear accountability and therefore inconsistencies, operational dysfunctions and a lack of a governising sense of mission amongst leadership. This has taken the forms of de facto veto by Exco of Committees, structures and Managers delegated by the Board to execute its mandate as well as threats and fear tactics through the use of the remuneration system to bully staff into line.

The latter was a theme that ran across the full spectrum of staff we consulted during the review. While current dysfunctions have been largely between two Chiefs and their respective opponents and supporters, it is therefore foreseeable that similar power plays could erupt into any of the many fiduciaries with overlapping and inconsistent rolls.

CHAIRPERSON: In your reference to Chief, who are you referring to?

MR VUYO JACK: So one the one hand, the CEO, Mr Elias Masilela and on the other hand the Chief Investment Officer, Dr Dan Matjila.

CHAIRPERSON: Thank you.

MR VUYO JACK: And then point 3. Dereliction of fiduciary duties by the executive. There were several limitations to the review, however which effectively prevented further investigation of the impact of the practices at the PIC on its core business investments. Some evidence emerged which suggested derelictions of the fiduciary duties of leadership which should be investigated. They include deliberate and conscious effort by Exco to dissemble crucial oversight bodies such as risk from an independent look at investment processes and decisions.

At least one consequence that came to light during the review was a raft of reclassifications of listed companies in which the PIC is invested to unlisted. There are others which will be taken up in the final report to be presented to the Board in July 2014. And then 4, suspicion and polarisation. Similarly limited legitimacy, a parochial mentality that ferments suspicion and polarisation and impedes the ability to transcend division. A lack of clarity or vertical coherence and a limited attention to overall PIC goals were other factors encountered that to a greater extent has constrained the capacity of the organisation to reach its objectives.

As a consequence of this problem was the absence of clear well-articulated and designed and consistent strategies. Thus the ability to achieve synergies between interventions by department, at different levels of responsibility was weakened by a mission drift within the PIC as a whole. Point 5, misaligned principle agent relations. There are also a number of internal factors that have debased the role of the PIC to some extents, these were an extension of the factors mentioned above.

In the PIC investment context, the principals are the stakeholders and shareholders and the agent, the PIC. In theory Public Sector Agents will have a very different agendas to those of their principals in the private sector. However, the PIC's largest principal is the GPF and therefore Government. Thus, individual agents seeking to maximise self-interest in the PIC context, constitutes a blatant conflict of interest and therefore a dereliction of fiduciary duties to the Principal. This misalignment of agents in centre with the interest and objectives of the principles appears to be at the core of the governance problem at a macro level and requires urgent intervention. If the PIC is to be spared from reputational and financial risk, it is we conclude, a matter of bringing divergent incentive back into alignment.

CHAIRPERSON: Can you please elaborate a bit more on that? What exactly is that what you are saying?

MR VUYO JACK: So what is the intention of the principal stakeholders and the limited partners that have their funds managed by the PIC, is to maximise on returns. However the agent being the PIC, how are they compensated? Are they compensated based on the achievement of these objectives or on other basis? Right now the constraint was that unlike in the private sector, Managers, Asset Managers would have a carry in terms of if they increase the value of the investments, they will be able to take a portion of the profits as part of their remuneration. And that was not there at the PIC.

When you look at the remuneration structures, it was governed by when you look at National Treasury's format, which was not really fully helping the PIC to compensate their asset – their Portfolio Managers and the staff as you would find in the private sector. And hence therefore the more the asset base increases, what is the benefit that the principals get, I mean the agents get? It is not linked to the increase and hence that disconnect then gives rise to a risk that in order then to be compensated, you would find other ways to be able to get compensated.

And therefore it becomes divergent, the underlying principle of increasing the underlying value for the principal and how do you actually get compensated? And hence there was a greater discussion that was initiated by Dr Dan to us, should there not be a carry vehicle that will then enable the Managers to be compensated in terms of the growth of the underlying assets. And of course the Minister at the time, Mr Pravin Gordhan was saying, but hang on what is the risk that you would have taken for you to be able to get the returns as a private sector?

Because in the private sector you have to start from zero, go raise the money, go convince various limited partners to invest in you. You go on roadshows for two or three years so there is huge skin in the game and there is huge risk that you are taking. And in the scenario of the PIC, what is the risk that is taken by the principals that run the PIC? It is a Captive Fund because the UIF, the GPF bring the funds to you and therefore that disconnect in from a strategic perspective was not really resolved. And that is why you had these kind of risks therefore arising as a result.

MR FRANS LEKUBO: Maybe on that score too, can you talk a bit about performance fees you know in terms of managing the assets? Because I think I note that it looks like performance fees are not paid by the GDPF to the PIC.

MR VUYO JACK: So the PIC is compensated according to for the listed entities, there is a – its much lower kind of management fees compared to the ISSI buyer because with ISSI buyer which is your unlisted investments. There is much more work involved in that and therefore there tends to be much higher percentage of management fees. And in terms of when you work hard, the bonuses, you would have a score card, therefore that will not necessarily be linked to the performance of necessarily the underlying asset base that is managed by the PIC.

So hence the performance fees based on the underlying performance was a great question of debate and saying should there be – should there not be that kind of incentive because then the incentive is about how you manage the base of asset and you get compensated with management fees. And hence one of the risk, when you classify, so you get paid on listed entities a lower percentage, vis a vis on unlisted, fees are much higher percentage. So there is therefore a risk that you might want to reclassify some of these investments that are listed to be unlisted because you can be able to get much higher fee and therefore compared to the unlisted, I mean to the listed investment.

Just to give an example, without belabouring the point too much. So if you have a BEE deal done of a listed entity, the fund that sometimes you use to fund the BEE parties would be from the unlisted investment. But this is a listed company, but now you put the PIC into a kind of difficult position because now you have a listed company that you hold quite a substantial part of, but then you are also funding the BEE party to get into the listed. So your funding as the PIC of the unlisted BEE party to buy into a listed should come from a different fund, so therefore would be compensated on a different rate vis a vis when you look at then the portion that the PIC holds of the listed.

And that is why sometimes it can give rise to confusion to now say, do you consider this original holding by the PIC, plus the risk that they are taking on the BEE party as part of the listed or do you have a dichotomous situation where you show still exposure to PIC of one party in terms of one listed asset, but two different entry points. The first entry point directly held but also indirectly held by funding the BEE. So those were the things that gave rise sometimes to that confusion.

And also therefore what we highlighted was, there is a risk that there could be more of wanting to be able to recognise the unlisted portion while you are still having exposure of the listed assets because of the higher fees that you are able to get. So we needed to actually clarify and come up with a policy to say, how are we going to deal with this? That is why we say in the report, that lack of clarity of how you deal with these issues needed to be elevated and engaged with by the Board.

CHAIRPERSON: For somebody who like me needs some clarity from management fees who benefits, is it the PIC is it Government, who benefits from those management fees?

MR VUYO JACK: So the management fees enable the operations of the PIC to run and of course the biggest cost would be the professional staff and so from the management fees the bonuses of the staff would actually be paid. But you would also want to make sure that you charge enough management fees that you're able to create some reserves if for years when the portfolio goes down you're able to still have operations. So there was no profit element in essence that was embedded and hence the, through you Commissioner, Mr Lediga's point on management fees and performance fees. So the management fees is to make sure that you're able to keep your lights on, manage the assets and pay your staff accordingly.

ADV JANNIE LUBBE SC: Thanks

MR VUYO JACK: So point 6 weak monitoring and accountability. We have already referenced the problem of accountability suffice it to say that the apparent leadership crises is compounded by poor formal systems of oversight, monitoring and accountability including the oversight role of risk management partly because of a lack of specificity of the underlying activities of structures responsible for oversight. At issue is both the overriding role and identify of the structures namely risk management HRRC company secretariat and the incentive structure which seemed to be deeply embedded in the remuneration system and moderation system. At the risk of reducing this observation and interpretation to generalisation the growth context of the PIC in which approximately 1.7 trillion is under management combined with the absence of performance based incentive structure in the different department has distorted the governance system. In that regard the incentive for demanding accountability from leadership is compromised by lax oversight but largely undefined underlying activities of the departments that are not functionally aligned to their core business.

And then 7 low specificity and oversight of deals. The final conclusion of the review is a conceptual observation. A great deal of organisational theory outlines mechanism to bring the incentives of principles into greater alignment with the agents utility functions. By contrast there appeared to be low utility functionality by investment teams at the PIC. In other words much energy and attention in the past year has been on getting as many deals as possible to push the quantity line and meet numerical outputs irrespective of the quality of the return benchmark set by clients in their investment mandates. While this was no explicit in our interview with staff it was most certainly implicit in data from PIC documents supplied to us, the danger which with such an approach is that it compromises quality and results in an exponential rise in the number of bad deals. To sum up then, driven by vague and sometimes contradictory delegations of authority and lines of accountability there is a tendency by the executive leadership towards a substitution of accountability and delegation of roles and related outputs with practices and behaviours geared towards executive control. In that sense the interest of the executive as well as commitments to the PIC goals seem to have run counter to incentive structures and best practice. So that summarise the gravity of the problem that we saw from the underlying.

ADV JANNIE LUBBE SC: Can I ask as a lay person, as I understand it what you're saying here, and that's how I understand it, that people were chasing the numbers for their own benefit, is that what it means or am I wrong?

MR VUYO JACK: So people were chasing the numbers of deals regardless of the quality of the deals and so when you chase the number you have let's say in a fund investment panel given to say you have 5 billion but the way you charge management fees is based on how much you've deployed and therefore that comes into play therefore the more you're able to deploy is the more you're able to also, which is a general principle of private equity, the more you deployed because you've worked on those deals is the more therefore you'll be able to then charge the fees.

ADV JANNIE LUBBE SC: Thank you.

MR EMMANUEL LEDIGA: A question closer to that issue is that on the listed side was there, how did they actually do the performance management there, private equity is more deals but on the listed side what was the sort of performance management metrics say?

MR VUYO JACK: So what you'd find is that as per the mandate with the GPF they would be compensated as a particular percentage of the assets under management on the listed side so which is therefore different from the unlisted side.

MR EMMANUEL LEDIGA: And in terms of the sort of private equity side where sort of returns were they part of the bonus system or the number of deals was sort of predominant?

MR VUYO JACK: And so it was mostly in terms of the amount deployed towards deals. The question of performance of the underlying performance of the portfolio was the issue in huge debate because how would you be able to remunerate the performance of the underlying. Now if you're going to use the PFMA it becomes very kind of difficult because in essence if you look at the underlying performance you would be paying people millions and millions which becomes politically unexplainable to say hang on what is a risk that was taken for this millions to be earned by management and so therefore it became an issue that was not resolved and I don't think it's even resolved to date to say how do you compensate based on the underlying performance the investment staff in terms of the returns that they can be able to get whereas in the private sector it's very clear 20% kind of carry it's a principle that actually has been well accepted internationally.

MR EMMANUEL LEDIGA: That's a difficult conundrum there because how do you sort of incentivise people to do well and get good returns.

MR VUYO JACK: Ja.

MR EMMANUEL LEDIGA: And then they don't participate in that.

MR VUYO JACK: Ja.

MR EMMANUEL LEDIGA: You know how do you get them to work then I mean surely they will just put money in transactions isn't it?

MR VUYO JACK: Exactly so it has to be resolved because in ultimate terms what are the options, strategic options available to the PIC so when you look at Calpers they don't manage any private equity staff in-house it's all completely outsourced therefore it does not give rise to this conflict of saying how do you compensate the investment professionals for the underlying performance but then the problem with that when you look at the transformation imperative that the PIC has you know the PIC is a place black professionals can actually learn and be skilled and be given the opportunity to actually develop their talent and so therefore if you completely outsource that the likelihood is that it will be detrimental for transformation because the likelihood is that you do not have many black private equity players that might have equivalent experience but now it's coming up so it can actually change but at the time you find that you do not have many players that can actually be able to be having all this outsource to and still be able to have transformative imperative. So the question therefore becomes how do you cover the middle ground whereby you compensate people based on the underlying performance but it's not excessive returns so there must still be some skin in the game so that you're able to drive and align the incentives appropriately and also when you look at the transformation impact of saying how do you help develop the skills of black professionals within the PIC to be able to do that because right now it's very difficult for them in other areas. So that's why the PIC's an important player in helping them to actually develop these skills and that's a conundrum that he's facing, what is that sweet spot that says we acknowledge the contribution but at that the same time we also have this developmental role in terms of the black skills and be able to create more black professionals in the investment and asset management kind of services.

MR EMMANUEL LEDIGA: Difficult one. If someone has got five years experience, 10 years they might actually leave the PIC and go and make millions in another private equity firm.

MR VUYO JACK: Ja.

MR EMMANUEL LEDIGA: Ja is that correct?

MR VUYO JACK: It is if you were, and it was a situation of concern as well in terms of when you do not have this sweet spot it drives behaviour such as you have people working on the deals and at the conclusion of the deal they leave the PIC and join those companies because there's more lucrative rewards once you leave the PIC and join that and this was one of the issues that was raised by members of staff as a risk mechanism because now if I'm a dealmaker working on a deal now whose interest do I have at heart, is it the PIC's interest or do I have my interest at heart to have a parachute when I leave here and I go in and work for that investment that I've actually dealt with, that I've actually structured and there was that risk and there were examples that were cited of PIC employees who've been working on deals and at the conclusion of deals then they go and work on those portfolio companies that they were able to manage which then shows the disconnect in terms of the principle and agent kind of – I mean being incentivised in the same way. And these are real issues that have to be managed and you only can be able to manage them by finding the sweet spot, recognise performance and give remuneration to the people that are working on it and at the same time being able to drive transformation. So there is potentially that sweet spot but the consequences of that sweet spot is that you are going to have a lot of people being paid huge amounts because now when we're talking about the amounts that are at play you could have people getting paid 100 million as part of those performance and so from a political perspective will that be palatable so that's the difficult balance that has to be found.

CHAIRPERSON: Any questions of restraint of trades I suppose?

MR VUYO JACK: You see with the restraint of trade … (intervention)

CHAIRPERSON: Could someone consider that?

MR VUYO JACK: The restraint of trade does inhibit, firstly it does inhibit the livelihood of the person because you have to pay them then if there's going to be a restraint of trade and therefore there has to be provisions for that and if you do have quite a number of people then leaving then it becomes untenable from a budget perspective. And so one of the solutions was you put a condition precedent in the deals that people are working so if you have a deal funded by the PIC you tell the company if you employ anyone from the deal team it will be consider a breach therefore do not employ who's worked on a deal from PIC. So those were some of the suggestions came up as a result of this engagement and that's much of an effective leaver because the company on the side, on the other side having received PIC money would not want to actually trigger that breach based on who you brought on as an employee. So those were some of the solutions that were looked at rather than just utilising the restraint of trade because of the financial implications but also the implementation thereof becomes quite cumbersome.

ADV JANNIE LUBBE SC: Okay.

MR VUYO JACK: So continuing so what solutions therefore were suggested in the draft governance report. The urgent strategic interventions identified included a draft Board policy based on best practice. What is clear from the current overall policy framework is that there is an incomplete Board policy on governance given the wide berth of dysfunctions associated with governance related problems at the PIC we recommend the immediate drafting of a policy document. We have annexed best practice examples of governance policies in comparable organisation to help guide the process.

Two, clarify the role of the Chairperson of the Board. We recommend immediate clarification of the status of the Chair of the PIC Board. The potential hazard we contend is not primarily the idea of a shareholder chairing the Board but whether in the wisdom of the Board a political chair is prudent given the fluid nature of politics and if so, whether such status should not be balanced with a deputy non-political chairperson. This would ensure continuity should the political chair be removed. Such appointment should be immediate.

Three, expand representivity of Exco. Expand the Executive Committee to reflect the investment management nature of the PIC, rebuild confidence in the Committee and signal trust within the PIC. The link between immediate steps to that effect and the spirit of transparency and progress so sorely lacking at present must be urgently established in the act of reconstituting Exco.

Four, scrapped Manco which is the Management Committee. Concurrently scrap Manco with immediate effect. One of the consequences of the two structures has been rival authorities and the subsumption of Manco under Exco. Under the expanded Exco the thrust would be forwards towards a unifying structure and vision. So those were the immediate interventions that we suggested in the draft report and then we then talked about the urgent interventions.

In addition to the urgent strategic interventions outlined above the report also highlighted urgent related interventions which included number one, clarify fund investment panel structures and appoint further non-executives. The FIBS structure should be clear and unambiguous given their operational functionality in investment. The structure should be clarified and a resolution signed to that effect as well as for purposes of appointing non-executive director to the panel.

MR EMMANUEL LEDIGA: Question, just to go back to the Chairperson's role there is a Deputy Chairperson, I think you do cover it somewhere further down but let me understand the role of the Deputy Chairperson. Is that person sort of a lead independent director of sorts or they have no powers at all you know to serve as a counterbalance between the Chairperson and the Deputy Chairperson? Am I making sense?

MR VUYO JACK: So this was a suggestion that came out and that effectively was adopted to actually have a Deputy Chairperson because the view was we want to continue with the political chair and hence for continuity and also for being able to bring that independent mindset you needed that Deputy Chairperson. Therefore in essence it becomes de factorial of an independent non-executive director that is able to weigh in on issues that require an independent mindset because the reality of having of a Deputy Minister is going to be influenced by politics and therefore in order to enable sound investment principles, sound corporate governance principles, sound economic principles to the Board to actually be able to bring that to the fore you needed for that counterbalancing of a Deputy Chairperson.

MR EMMANUEL LEDIGA: But it appears that listening to the testimonies we had in the past couple of days that rule never really came to its full potential within the Board in terms of the Chairperson helping the Board you know to act as a counter force to the Chairperson.

MR VUYO JACK: And the reason for that is when you look at the Draft Board Governance Policy that's where you empower the Deputy Chairperson's role because you go deeper into defining how they should be able to exercise that power. What situations enable their voice to take precedent on particular issues and therefore that is why it was an urgent strategic intervention to be able to give them the right power and structure and clarity to be able to allow them to be independent in terms of mindset. Because if you do not deal with that in your Board Governance Policy and become accepted then it just becomes an unpowerful position that cannot be able to then say this is what I'm required to do, this is how I'm exercising my independent mindset and there could be other interesting or political interference kind of issues however, being rooted in sound economic principles, sound governance principle I as I Deputy Chairperson I would be able to stand my ground on those. They need to have the governance policy to anchor their position.

MR EMMANUEL LEDIGA: The one is about the Manco and the Exco.

MR VUYO JACK: Yes.

MR EMMANUEL LEDIGA: What was the difference there typically?

MR VUYO JACK: So Manco consisted of executives, so you have the Chief Executive Officer, the Chief Financial Officer, the Chief Investment Officer, the Chief Operating Officer and the Chief Risk Officer, that's Manco and then you have senior managers that are in charge of division so the Isibaya, the listed, the properties, senior managers, the human resources so that becomes your Manco, your senior managers were part of Manco. So in essence why we said scrap Manco decisions made by Manco could be overturned by Exco and in most cases therefore it made the work of Manco very superfluous because whatever they decided in most cases can actually be overturned and hence the suggestion was you need to beef up Exco, what business is the PIC in? Investment management. So the issues that should be Exco can't be about corporate in terms of procurement only it has to be also the core investment decisions, investment strategies where you'd have senior investment officials being able to be represented at Exco and have the seat whereby they can be heard rather than sitting at the Manco level where there was nought teeth, there was more teeth at the Exco level rather than at the Manco level.

ADV JANNIE LUBBE SC: I was going to ask you this at the end of your testimony but I can just as well ask it now, you know that the position of the COO and CRO on the Executive is now gone?

MR VUYO JACK: I've heard so ja.

ADV JANNIE LUBBE SC: So practically and effectively the two top people in Manco is now the CEO who was previously the CIO, those two positions have been merged and the CFO and all the other executive managers report to these two people is that an improvement or not on what you have researched and commented on in your report?

MR VUYO JACK: On what principles could you be able to justify that structure on any governance principle whereby you have no checks and balances in place? If you have two people having now gotten rid of the CIO or CRO role it brings more risks because there's a concentration risk in terms of decision-making processes. In every investment process you need to be able to have the checks and balances, you need to have independent mindset, have robust discussions that could be able to highlight some of the blind spots that a particular person has. So if you effectively, and this is what we've looked at in detail of saying in essence the CFO role was subsuming the powers of the HR because of the abilities of the moderation committee and ability of releasing cash and subsuming the powers on procurement and everything which therefore does not have segregation of duties which is a basic principle of governance. You need to have segregation of duties because not all of us have the wisdom of Solomon so we do need to be able to have others with different point of views to be able to bring them to the fore and then you would be able to have stronger decisions coming out. The risk of having such concentration of power what happens if the CEO CIO leaves and we've highlighted this in the report to saying that it stops the approval of processes and where, and in one of the urgent interventions where we suggested that you need to have senior investment officials there was a huge deadlock in approval of investments based on the delegation of authority because power was concentrated at the hands of the CIO and the availability of the CIO was not easy because he also sat on boards and so forth which was an issue that was raised at the Board to say now this timeline of conclusion of deals is going to be compromised by the CIO being overstretched. Now if you lump the position of the CIO with the position of the CEO you're bringing more on board, what are you doing? You're creating a great bottleneck which you do not need in the system that doesn't talk to agility because then you're not going to be able to be agile and it also doesn't talk to proper succession planning where people can be able to be developed into particular positions and be given ability to exercise authority because when you look and say if the top two people what is an institutional memory number one, what is the experience that has been given to the people below the layer? In this case if you're applying what you are saying is that you do not have that and what does that do? It exposes the PIC to huge risks.

ADV JANNIE LUBBE SC: You were very critical in your evidence about the centralisation of power.

MR VUYO JACK: Yes.

ADV JANNIE LUBBE SC: Isn't this new structure where the CEO and CIO the positions are now one, even a more centralisation of power?

MR VUYO JACK: It is more centralisation of power and one of the key lessons we've learned in this country is that when you design structures don't design structures based on people. Design structures based on what is in the best interest of the organisation because it can be anyone who can occupy that position, you go beyond the issue of personalities and of course given what we have found previously the rationale was in order to avoid this tussle it's better to concentrate power in one hand so that you do not create two centres of power. So that could have been a pragmatic solution to dealing with the conflicts that has arisen in the past. However, is it the best design for accountability, the best design for being able to have longevity in the organisation I would venture in saying it isn't because you expose yourself to huge amount of risk.

ADV JANNIE LUBBE SC: I can just as well also ask you now about the draft bill before Parliament, I think it is now before the House of Traditional Leaders, we heard evidence that nobody at the PIC or the Board of the PIC have been consulted, have you seen this draft bill?

MR VUYO JACK: No I haven't.

ADV JANNIE LUBBE SC: It is recommended in that bill that the position of the

Chairperson be now legalised in that the Deputy Minister must now be the Chairperson of the Board. You don't agree with that?

MR VUYO JACK: So when we look at the history of why was the Deputy Minister the Chairperson it was more from a pragmatic perspective, there's no principle, there's no legal principle, there's no economic principle that supports that the Deputy Finance Minister should be the Chair of the PIC. So because something is a tradition and it has over the years been accepted tradition it doesn't necessarily make it okay so we have to go back to the principles why based on sound economic principles, sound governance principles would you have that situation. It does confound the political cloud that can engulf the PIC and hence, and also when you are looking at the risk that government is actually facing having an independent person to safeguard those investments with a mandate that is not clouded by any political moves will ensure that you're actually enabled to safeguard the risk that Government is facing. By putting a political Chair it does exacerbate the risk. In short, I do not see any reason from governance principle, from economic, sound economic principles that this position would enhance the governance, will enhance the returns.

ADV JANNIE LUBBE SC: Well I can only trust that Parliament will take note of your comments. Can you proceed?

CHAIRPERSON: Continue.

MR VUYO JACK: So point number 2.

> "When we were looking at the urgent interventions was revised delegations of authority. The format of the DOA system must be changed to build accountability and moreover responsibility in the execution of duties. We recommend in tandem with the revised DOA that each staff member signs a commitment to abide by their delegations thus enforcing accountability and

ownership of responsibility. Any violation would thus be a dereliction of duty. This method would remove ambiguity, simplify the DOA and clarify roles of the individuals within the PIC and I must note this was central to CalPERS – the California Pension System because before any delegation is given you sign for it and if somebody says you cannot exercise it you have appropriate escalation processes and this has safeguarded the CalPERS pensions system from interference that they have experienced in the past.

They had a very terrible experience with the previous CEO and so forth. That then forced them to relook and saying how do they look at the delegations of authority. So when we looked at their models and how they used it that was one of the highlights of best practices. Then 3 clarify roles of managers and staff responsible for the management oversight and accountability within the PIC. Their roles have head of legal chief risk officer and chief audit executive must be clarified with immediate effect. Such clarification must facilitate oversight such as internal audit, legal and risk. This was the biggest risk. In essence the role of chief risk officer was diminished in the sense that all the red flags that should be alerted by the chief risk officer were not and therefore because there was no clarity in terms of whom does he report to. Does he report to the CEO? Does he report to the CIO on the investment risk or dies he report directly to the audit and risk committee.

Such lack of clarification was a problem. To risk – sorry the head of legal that was also not clear to say head of legal to overall or is it head of legal for investments. Is it head of legal for corporate? How do they when they see that the resolutions that were agreed to in the investment committee are actually embedded in the legal documents that underpin the funding of the PIC. If that link is not clear you could have a resolution agreeing to something but the legal documents carrying something different. Hence therefore you need these roles – head of legal, chief risk officer, chief audit executive must have direct lines to the relevant committees over and above management so that an independent mindset is critical for these roles. Because these are the critical lines of defence before you can be able to rely on external auditors you need to make sure you beef these up. So this was an urgent intervention that needed to be done."

4 Scrap moderation policy with immediate effect.

"The moderation policy and the entire edifies of the system must be scrapped immediately in order to rebuild staff morale, restore fairness in the incentive remuneration and performance management system and unhinge power basis from abuse of the committee. This was almost a tool to punish people to say we shall see you at the moderation committee. You could have been performing brilliantly but in order to calibrate the performance of the individual to that of the team. So the team might have been underperforming but the individual over performing. So you would have to be recognised at the team's level of performance and therefore whether you were performing as an individual therefore counted for nothing.

The mangers could not actually do anything about it. So the right use of the moderation policy is such that you don't want people rating ...(indistinct) saying you shooting the lights out. So the original intent is to make sure that you can temper the exuberance of some managers to freely reward their staff with points. However the way it was used at the PIC it was turned around saying it's not going to be used to actually moderate the exuberance but it can also be used as a tool to punish certain employees. Especially those employees that would have an independent mindset to saying well so with that independent mindset we shall see you at moderation committee. That of course does kill the initiative because it doesn't matter how well you do as an individual you going to be measured to the lower level of your team.

If there are loggers in the team that are not able to meet all the requirements therefore you going to feel the brunt of that. Therefore that's why we said on 5 recalibrate the balance scorecard to reflect strategic issues ...(intervention)."

ADV JANNIE LUBBE SC: Can I interrupt you there? I remember correctly Petro Decker was also critical of this moderation system and she testified about the appointment of Deloitte or PW – not PWC - the appointment of PWC to address this issue. Do you know anything of the PWC appointment and their review of the balance scorecard?

MR VUYO JACK: No I wasn't part of the board at that time.

ADV JANNIE LUBBE SC: Thank you.

MR VUYO JACK: And so in point number 5 we then say.

"Recalibrate the balance scorecard to reflect strategic issues. Concurrently initiate an urgent recalibration process in which the next cycle of the balance scorecard focuses on strategic issues rather than job descriptions. Concurrently relook at benchmarks used to determine performance in the scorecard."

And 6.

"Empower managers to manage using the balanced scorecard and concurrently empower managers to manage staff using their balanced scorecard because the moderation committee ultimately overruled the managers in the use of this scorecard."

7 was a big one.

"Change Africa internal controls from listed entities to private investments. The internal controls and risk management process of investing in Africa must be immediately put into place to safeguard the PIC assets under management. Furthermore recast Africa internal controls and risk as private investments rather than listed entities. This should reflect the reality of an investment landscape largely characterised by unlisted entities and opportunities in which internal controls and risk is vastly different to listed investments. This also means that the process to be followed is the private investment one through the fund investment panels.

And then why this was important is because the level of controls and the kind of development that you'd expect outside of South Africa required much more scrutiny, interrogation. We could not be able to assume that the way that the listed entities in South Africa are is the same level of development that was outside of South Africa. Therefore if you are using the same delegation of authority to evaluate investments into stock exchanges outside of South Africa without further scrutiny you'll be opening yourself up to risk for example. How you settle your foreign exchange, the legal requirements. What if you lose your money? What is the recourse of you engaging in recovering that money? When you look at West Africa you look at East Africa, different legal system. How are you going to be able to harmonise that? So you needed to have further scrutiny when you place investment outside of South Africa environment because of the huge risks and an example of such was the K-Mart deal whereby according to the delegations of authority it was fine. It was in line with that.

However when you go deeper into the environment in which it happens even though it might be listed on the New York stock exchange and have the oversight of the SEC you needed to make sure that you have more controls and more scrutiny. That will enable the investment to actually yield return. At the least make sure that you don't lose any money and kind of assurance would you rely on that you not going to lose money requires further interrogation than the interrogation that the current at the time. Current delegations of authority could not be able to give us a comfort which was why some of those deals were raised at the board level to say there is concern around some of these deals."

Then the last portion was appoint senior investment officials.

"The appointment of senior investment officials would greatly enhance the management of operational issues and strengthen accessibility reporting and accountability at all levels of the PIC. In essence what you'd be doing you would be then having senior investment officials looking at the listed entities then senior investment official looking at the unlisted investment. Then the third one would be looking at the properties and then you'd have the fourth one being a senior investment official that looks at all the international investments because part of the GPF appetite is to diversify the risk that they facing not by having all the assets concentrated in South Africa. Therefore we needed to be able to make sure that then you could have somebody who is dedicated to look at those international expansions.

I guess it was echoed recently when they said there would be going on an aggressive strategy of diversifying their portfolio to cover offshore. So when you look at that the PIC when the GPF makes that statement to say okay we want to diversify offshore in the PIC you need to have your point person who would be able to say this is how it's going to be done and this is who we going to help you as part of our client the GPF for expansion. So you able to respond to the needs of the client in a very agile manner but in a manner that has enabled this person to a mass knowledge of those markets and part of that might have been to open an office in Nigeria and have an office in New York. Because currently Black Rock would be managing quite a substantial offshore portfolio and therefore having presence in those markets would enable you to actually be aware of all the risks. But when you have only one person looking at the vast – I mean this is R1,7-trillion worth of assets that can never be actually given the same level of attention and detail from the CIO.

Let alone having the CIO and the COO role conflated into one. Then you're going to be missing quite a lot of nuances. Another important element of this is that it enables you to have succession planning because if anything had to happen to the CIO you have four senior investment officials that can ably fulfil the role of the CIO. So you able to create your – almost like grow your own timber to enable you to manage your personal risk – the key man's risk. Because in ultimate terms the key man's risk is now high when you just had the CIO alone but it's further heightened when you have the CEO and the CIO role conflated into one."

So that summarises the findings. Now what happens with these findings?

"So the governance review findings engagements and workshops. So the governance report was first tabled at the audit committee just to deal with this where the findings were discussed in great detail. Each member of the audit committee was handed a physical copy of the report and were requested to return copies after the meeting in order to safeguard the promise I made to the staff that participated in the governance review process. There were issues identified that had to be elevated to the board. Subsequently the report was tabled at the board level on a meeting held on the 23rd May 2014. In the board meeting a facilitation of the climate survey was conducted by Mr Craig McConnell from Deloitte as the non-executive director. I presented the findings of the governance review without the executive directors present in the in committee of the non-executive directors. Whereby it became clear that there was a definite link between the primary governance review findings, ethics within the PIC and the Deloitte's climate survey.

It was then agreed that a special board meeting be scheduled once the report on the governance review was finalised to discuss the outcome of the report with Ex Co members. When the executive directors joined the board meeting they raised the concern that the expenses relating to the KPMG governance reviewed be classified as irregular expenditures since the decision to appoint KPMG was not documented. The stance taken by the non-executive board members was that the work conducted by KPMG had commenced after approval by the board in November 2013. As such did not meet the definition of irregular expenditure. It is worth nothing that I made sure when I became the Ark Chair that the governance review project was documented and approved by the board as per the evidence contained in the memo submitted to the Chairman of the board."

ADV JANNIE LUBBE SC: What was your take on this objection to the expenditure – labelling it as irregular via the Executive Director?

MR VUYO JACK: One would characterise this as a Starling grad approach. A Starling grad approach don't deal with the substance of the matter, deal with the process. Did you follow the right process? Did you get the right approvals? Did you pay according to the PFMA rather than dealing with the substance of the issues?

At the end of the board meeting to illustrate the importance of the board's need to lead I gave the directors at my own cost a book by Ram Charan, Dennis Carrey and Michael O'Sean. When to take charge, when to partner and when to stay out of the way. This book was published in early 2014 and it was a perfect guide to dealing with the issues faced at the PIC and provided great insights.

And I think it was a question raised earlier to saying how do you know whether you interfering too much. So this helped to actually guide to saying when you have a crisis you need to lead. But at some point you need to partner and allow management to now run the show. And at some point you need to get out of the way, leave them be because these are really great people that are doing great jobs.

So that book provided that nice boundaries – the insights on how to actually draw the boundaries and why did I buy it for the board members? I wanted them to see this is what we need to do. We can't just sit back and allow things to take a turn for the worse. So we need to be able to determine when should we lead and at some point when should we be able to allow management to do their own things.

ADV JANNIE LUBBE SC: Are you still promoting this book?

MR VUYO JACK: This book it has helped immensely in terms of establishing ...(intervention).

ADV JANNIE LUBBE SC: It was just on a lighter note.

MR EMMANUEL LEDIGA: Just a question. So in terms of the processes at the PIC. The board can actually take charge?

MR VUYO JACK: Absolutely.

MR EMMANUEL LEDIGA: I guess boards can take charge can take charge anywhere – any parts of the business isn't it?

MR VUYO JACK: Absolutely because the shareholder confers you the power to actually manage. That's part of your fiduciary duty to actually manage the business of the entity and what you do as a board because you can't be there day to day you delegate those powers to the chief executive officer who then delegates it to this Ex Co and all the right people within the organisation.

But ultimately when you look at where does the responsibility at the end of the day lie, it lies with the board because they have to be account5able to the shareholder to saying this is how we utilised your power.

"So we therefore also had workshops with internal audit in order to identify how they could be strengthened in their work despite budgetary constrained they faced. Internal audit did not have much of a budget which therefore limited their ability to delft deeper in their investigations in terms of how they actually going to be able to test some of the issues that investments, some of the issues around risk and so forth.

So because I was ...(intervention).

ADV JANNIE LUBBE SC: If I can just again - sorry to intervene again. The role of an internal audit unit in an organisation like the PIC would you agree it is an extremely important unit?

MR VUYO JACK: It is a crucial unit because the board will never have sight of all the transactions and all the things that are happening and therefore by giving unfettered access to your chief audit executive who is capacitated at the right level firstly – positioned at the right level, capacitated with the right resources they will be able to fulfil their functions and that is an undeniable fact that without that function opening – I mean happening your lines of defence become weakened.

ADV JANNIE LUBBE SC: And there is no chief audit executive at the PIC?

MR VUYO JACK: And that is a concern. Because this person is from an audit and risk committee perspective they are the eyes, the ears, the arms and the legs of the audit committee whereby they have unfettered access to everything.

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

MS GILL MARCUS: Sorry just on that point. I'm assuming that the board approves the budget?

MR VUYO JACK: Yes.

MS GILL MARCUS: So what did the board do about the budget constraints for internal audit given all that you've just said about the role of internal audit?

MR VUYO JACK: Okay so the first thing we did – the budget process starts at the audit and risk committee and so then there we determine what is the scope of the ...(intervention).

MS GILL MARCUS: No I understand that. What I'm asking specifically is giving that you saying that there were budgetary constraints for internal audit and it's critical role which is clear in every corporate what was done to ensure that they had sufficient funds to do the work that needed to be done unfettered?

MR VUYO JACK: So firstly then there were positions that were budgeted for and what took time was filling up of those positions and therefore you could have the budget but if you do not have the hands and feet to actually do the work that becomes a problem and it's the same problem with risk.

There were particular positions on the organogram but the filling of those positions took an ordinate amount of time and therefore that constrained the resources that were available for the internal audit to do their work.

MS GILL MARCUS: That's not a budgetary constraint then that's a process of filling the positions constraint.

MR VUYO JACK: That's correct.

MR EMMANUEL LEDIGA: So – no, no it's fine thank you.

MR VUYO JACK: Okay.

> "So I also arranged the Chief Audit Executive of the National Treasury Mr Lesego Seperepere to share his insights and experience in dealing with management who may not want to cooperate with internal auditor. So that helped to be able to give them insights of how they manage engaging when there is not as much cooperation that is forthcoming. I also arranged further workshops with the risk team who were also under capacitated in terms of manpower to assist them in strengthening risk management within the PIC. For example the risk organogram within the PIC had 31 positions but only 15 positions were filled. Due to the dire situation that the team was in at the leadership level the team was struggling to stand their ground as one of the key lines of defence within the PIC.
>
> The Chief Risk Officer always avoided conflict with the Ex Co as it could be quite bruising to a person's mind and soul. As stated before the strain became too much for Dr Xaba and he resigned on 30 September 2013. Dr Xaba was replaced by Mr Paul Magula as the acting Chief Risk

Officer."

MS GILL MARCUS: Can I just ask a question in relation to that because the way its worded here is that the Chief Risk Officer always avoided conflict yet a Chief Risk Officer's role is not necessarily by its role a conflictual one. It is one that ought to be highly regarded and respected in taking account of when you make a decision.

Does that – what's inferred here is that the rest of Ex Co or the decision makers were not open to listening to the findings or the views of the Risk Officer.

MR VUYO JACK: Yes the Ex Co was not open to listening to the views of the CRO and the risk was not seen as an opportunity to strengthen the processes. It was therefore not given the same regard that it should have and this came out when we looked for example at Black Rock. When we looked at the Kaaphurst.

The role that the Chief Risk Officer plays is such a crucial role and is actually quite elevated within the structure and the views of the Chief Risk Officer are given credence and gravitas but this did not happen. It does help when you have a strong character who can be able to stand their ground and when you don't have that it becomes very difficult for the Chief Risk Officer.

MR EMMANUEL LEDIGA: Question. In terms of risks – I mean there are various types of risks. You know corporate risks, equity risks, credits risks, many types. Do you agree with the way the risk department at the PIC is structured generally at the moment?

MR VUYO JACK: No I don't.

MR EMMANUEL LEDIGA: Just explain why?

MR VUYO JACK: Because when you look at firstly within the delegations of authority the role of the Chief Risk Officer has to be firstly ...(indistinct) there. Then when you look at your risk department you need to be able to then say with these different types of risks that you facing have the right kind of people that have the right skills to be able to firstly identify potential risk factors.

Two find mechanism of how you mitigate that and also you work with the internal audit to be able to test some of those and therefore you have to work in conjunction. Therefore you have the right kind of people dedicated to looking at credit risk and within credit – and you also have counter party risks.

So for example if the PIC is investing in let's say Vuyo Jack brings a deal. But Vuyo Jack goes to the different fibs. The risk must be able to say hang on Vuyo has used his balance sheet to get money from private equity. The same balance sheet to get money from priority sectors. The same balance sheet to get money from properties.

Therefore risks should be able to have sight of that. But currently – well I can't say currently but at the time I was a member that was very difficult to actually see and hence there needed to be a recalibration of being able to see the risk from the different units whether it's listed and unlisted.

But also from a unified perspective so that you able to see the kind of exposure. So the way that risk was structured was not optimal to actually enabling that management of risk to happen appropriately.

ADV JANNIE LUBBE SC: Regarding the appointment of Mr Magula my information is that he was quite a junior person in that department. Do you know anything about that? Can you perhaps enlighten the Commission?

MR VUYO JACK: So because he was a acting chief risk officer yes and at the time I think he was also looking at fixed income kind of risk. So therefore there was – let's put it this way. There was no other people that were as strong and so as an acting chief risk officer it would have been fine however you needed to make sure that when you now appoint somebody who open up the process to make sure that you going to have somebody with an independent mindset. Somebody who can be able to stand their ground.

MR EMMANUEL LEDIGA: Just to ask another question on risk. So it means you might actually have somebody looking at typical corporate risks and another person looking at the investment risks you know equities, bonds and all that. Is that how you would look at it?

MR VUYO JACK: Absolutely and all these people would be under the chief risk officer because they'll be able to be monitoring and focusing and actually be able to create domain expertise on particular types of risks and therefore they would be your soldiers on the ground that enables you to be alerted to the risk.

Hence that's why the needed to be pervasive in a sense of presence in most of the Committee meetings because as the discussion happens they'll be able to identify certain triggers that will need to be managed and hence there was a requirement to have a risk report with every investment.

That risk report would have been compiled by people with the domain expertise because there are different types of risks and different types of expertise. So therefore you need to make sure that you able to have the right kind of focus. Because if you have just one person that is a jack of all trades with no pun intended is that they'll become master of none in terms of then being able to look at the risk.

"Okay and then various workshops were also conducted with the investment committee starting in January 2014. Even before the governance review gathered momentum and I had raised some concerns ahead with the Chair of the investment committee Mr Rashan Mara after chairing my first meeting of the private equity and Africa Investment panel.

Some of the concerns were how do we know what is skin in the game for people that require investment. We need to be able to have a policy to say what is then the required level of saying the risk – the skin in the game that they are putting. Things on how to make sure that people do not use the same balance sheet to actually get investment from the different fibs. So as the Chairperson of the fibs we need to make sure that we are aligned and have line of sight of who the counterparties are and what is our level of exposure in those counterparties. So then that triggered then further kind of workshops with the investment committee arising from the findings of the governance review.

ADV JANNIE LUBBE SC: Is it a convenient time Mr Commissioner to take the lunch adjournment?

INQUIRY ADJOURNS

INQUIRY RESUMES

ADV JANNIE LUBBE SC: Mr Commissioner I hope to wrap up the evidence with this witness within the next hour.

CHAIRPERSON: Can I just to remind you Mr Jack that you are still under oath?

MR VUYO JACK: Yes, thank you Chair.

ADV JANNIE LUBBE SC: 54.

MR VUYO JACK: The Social and Ethics Committee investigation. It was also reported that the Chief Investment Officer, Dr Dan Matjila had raised a number of concerns around the governance review with the Chair of the Social and Ethics Committee, Ms Joan Woodruff. The Board delegated the issue to be dealt with by the SEC, the Social and Ethics Committee, to provide feedback in the next Board meetings.

My understanding of the questions raised by Dr Dan Matjila were as follows: Firstly, process issues around the governance review. Questions such as the KPMG appointment process. Terms of reference, is the work done previously by them not sufficient? Is it now an investigation? Is there no conflict of interest with Mr Ignatius Sehoole whose wife was a partner at KPMG and having them do the review? And the Director's Affairs Committee or Board Committee meeting in camera sessions where the Executive Board Members were not present, is not the governance review matter for all Directors.

Interviews with employees without senior staff is that not problematic? And then secondly, procurement procedures around the governance review. Did the PIC break procurement rules? And as a result, is there an irregular expenses to be recognised as per the PFMA requirements? And then thirdly, issues around third party perceptions where you have a Non-Executive Director not overreaching and running interviews for the governance review.

And then questions around the PIC Innovation Lab, whether a Non-Executive should be Director be running this? Could the market not provide this kind of service? And were rules not broken there? So these are some of the issues that the Social and Ethics Committee was dealing with. And as a result …

CHAIRPERSON: I am sorry. Before it served before the SEC, did these queries raised now, were they reported at the Board meeting or was this the first port of entrance?

MR VUYO JACK: The first port of entrance what the SEC where I think there was a document that Dr Dan submitted. And then the SEC highlighted it to the Board to saying there are these concerns that were raised. And therefore the Board gave the mandate to say, SEC please continue investigating these concerns. So that you know you want to have a fair hearing of the concerns that Management are expressing.

CHAIRPERSON: Did Dr Matjila at any stage before this SEC Committee meeting and investigation, did he at any stage raise any of these concerns with you?

MR VUYO JACK: No, he never engaged with me at all on his concerns.

CHAIRPERSON: Perhaps must I ask you, what was the relationship between you and Dr Matjila? Was it cordial?

MR VUYO JACK: It has always been very cordial in terms of being accessible, so we have met on other occasions too for example to deal with some of the Broad Based Black Economic Empowerment issues, secondly to deal with the issue of the carry vehicle that Management was thinking about. So it has always been very cordial. We have never had any confrontation. So after the Board meeting I communicated telephonically with Ms Woodruff about the governance review methodology followed, because she had asked me what was the methodology that I had followed.

I then submitted the Governance Review Methodology to aid the SEC to better understand how I had managed the process. Since I was also a member of the SEC, I then recused myself from further attending the SEC meeting on this particular issue so that they may conduct an investigation without my interference. An a special SEC meeting was called to deal with the matter. And it was chaired by Ms Joan Woodruff and attended by another SEC member Ms Sibusisiwe Zulu. I cannot recall how the investigation ended because there was no further feedback provided of whatever resolution was reached by the SEC special investigation.

However, the gist of the narrative is that Dr Dan Matjila had raised concerns at Board level with the methodology used for the governance review process. However, he neither attended any of the sessions conducted, nor did he honour meeting requests sent to his office. He also hardly attended workshops where governance issues were tabled. He only attended Board meetings and his attendance at – attendance record at the Fund Investment Panels and some other sub committee level engagements was a concern.

This was an issue that was raised at the Director's Affairs Committee, where a resolution that he should scale back on the Boards that he sits on such as Eco Bank so that he could be more present within the PIC.

CHAIRPERSON: Can I just ask, did this investigation by the SEC, it never came back in the form of a report to the PIC Board?

MR VUYO JACK: Not that I am aware of, no.

MR FRANS LEKUBO: So meaning all this, this points, they were not dealt with? Finalised? They were not finalised?

MR VUYO JACK: They may have been.

MR FRANS LEKUBO: Sort of Dr Matjila's concerns were they ever finalised and all that?

MR VUYO JACK: Through you Chair. They may have been finalised but I am not aware of what the final conclusion that was reached in terms of a official document to saying, this is an official document that we are tabling at the Board that closes the chapter on those concerns. So the escalation of issues with the Board Chair and the shareholder. So despite cancellations and rescheduling of the engagements with some stuff, we ended up meeting with all the critical divisions within the PIC, with the exception of Dr Dan Matjila.

As a Chief Investment Officer who has material delegated authority from the Board, he would be a critical person to provide insights into what works and also what does not work with the view of fixing it. All the members of the Exco participated in the governance review engagement and provided valuable suggestions about what can change, except for Dr Dan Matjila. I first escalated this concern to the Chairman of the Board at the time Mr Nhlanhla Nene during May 2014, with the hope that he will intervene and encourage Dr Dan Matjila to engage with the governance review process.

This was not successful because ultimately Dr Dan Matjila never engaged with the process. When Minister Pravin Gordhan wanted to engage with the members of the PIC Executive Committee due to the constant battles that were taking place within the PIC, I was invited to one of those meetings in my capacity as a Chair of the Audit and Risk Committee. After the meeting I requested a moment with the Minister so that I can appraise him of what some of the findings of the governance review. Due to the limited time we had after the meeting, Minister Gordhan suggested that we set up a further meeting to further interrogate the issues.

He saw the state of affairs that the PIC as an emergency that needed to be dealt with and rectified as soon as possible. A further meeting with Minister Gordhan, within May 2014 took place a few days later at the SARS offices along with Mr Dondo Mogajane, the Minister then Chief of Staff. I outlined the different interventions that were planned with the different sub-committees of the PIC Board. So just to clarify, when you look at the report, the draft report at the end we had a workplan to saying these are the issues, who should be dealing with that and what would be the suggested time frames in dealing with those issues.

So that is what I was appraising him on. He requested to be appraised of the progress and offered whatever help he could on his side as Shareholder Representative to fast-track the quick wins within the PIC. I indicated the difficulties we had with engaging with Dr Dan Matjila in the governance review process. And the Minister said he will engage with him urgently. However, shortly after that meeting we had the Board meeting on the 23rd of May 2014, and 24 May 2014 the Minister of Finance term of office came to an end.

Minister Gordhan was replaced by Mr Nhlanhla Nene as a Finance Minister.

And the Deputy Finance Minister was Mr Mcebisi Jonas who effectively became the new Chair of the PIC Board. On the 23rd of June 2014, I had dinner with Finance Minister Nene to appraise him of the different matters that affected the National Treasury Audit Committee, the IFMS Project which is the Integrated Financial Management System Project that is driven by Treasury. The GEPAR governance issues. The PIC governance issues and the Davis Tax Committee work amongst other things.

I updated the Minister on the various workshops we were having with the different sub-committees of the Board. The Minister mentioned that at least some of the things arising from the governance review were before Cabinet and that the role of Deputy Chairman was agreed to by Cabinet. A Cabinet statement came out on the 26th June 2014, announcing Mr Roshan Morar as the Deputy Chairperson of the PIC, confirming Mr Nene's statement to me.

I also highlighted that we still did not succeed in engaging with Dr Dan Matjila to contribute to the deliberations of the governance review. It was during this time that the CEO Mr Elias Masilela was leaving the organisation resulting in Ms Matshepo More to be appointed the Acting CEO. And on 1st December 2014, Dr Dan Matjila was appointed CEO of the Public Investment Corporations. And in the March 2015 Annual Report of the PIC, the Executive Head of Legal was Ernest Nasane and the Executive Head of Risk was now Paul Magula.

MR FRANS LEKUBO: What month did Mr Masilela leave? What month in 2014 I think?

MR VUYO JACK: I think it was July.

MR FRANS LEKUBO: July.

MR VUYO JACK: Ja, but I am subject to correction but it is around that time I think.

MR FRANS LEKUBO: Around that time.

MR VUYO JACK: Department of Arts and Culture. So it was during this June, during June 2014, I began engaging with Minister Nathi Mthethwa with the view of being his Special Advisor. This was an opportunity for me to revive my first love, music and film. While using my business and finance skills to transform the arts and culture sector, most people found this as a nonsensical move because of the apparently incompatible or incompatibility of the arts and culture sector to the business sector.

For me, it was an opportunity to make a difference in the area of my passion. In July 2014, I joined the Department of Arts and Culture as Special Advisor to the Minister of Arts and Culture. However due to the numerous issues that had to be resolved, my time became limited to do other things. In September 2014, my appointment changed from being a Special Advisor to Head of the Phakisa Operation Projects within the Ministry to fast-track the programs of the Minister. It was during this time that the Director General of the Department of Arts and Culture was suspended. And then on 1st October 2014, the Minister appointed me the Acting Director General, to due to the pervasive nature of the work required to clean up the department.

In reflecting back, I took the challenge with the Department of Arts and Culture due to the lack of progress in addressing the critical and substantive matters one identified within the PIC. The Stalingrad approach elements were evident in the situation and are usually meant to drain ones energy until one gives up. I lost interest in the PIC at some point due to the effectiveness of that Stalingrad strategy used by the PIC Executives an the inability of the Chairs and Shareholder Representative to bring them to account.

The bottom line was that I could not rely on the escalation processes to deal with the issues due to the lack of ability to bring accountability to the Executives of the

PIC, both at the Chairperson or Shareholder level. This claim is based on the fact that through all work done, I was never able to get anyone to bring Dr Dan Matjila to account and give his insight into the investment decisions under his watch. So the end of roles within National Treasury and its entities.

In the November/December 2014 Annual General Meeting, I was removed by the Shareholder as the Chair of the Audit and Risk Committee and Ms Sibusisiwe Zulu was appointed. It is the Shareholder’s prerogative to appoint the Audit Committee as noted in the PIC’s 2015 Annual Report on page 26, which states: the members of the Audit Committee, Audit and Risk Committee are all independent Non-Executive Directors who get elected by the Shareholder in line with Section 94(2) of The Company’s Act of 2008.

In 2015, my attendance of the PIC Board meetings declined considerably because I could not invest my attention capital in a place where it is difficult to generate a return on investment for the Organisation. In February 2015, my tenure as the Chair of the Accounting Standards Board came to an end. In April 2015, I resigned as the Chair of the National Treasury’s Audit Committee. Why? There is an inherent difficulty in being an Acting Accounting Officer of one government department and also being a Chair of an Audit Committee of another department.

Furthermore, I was struggling to give enough time to the task at hand at the National Treasury so it was truly unfair to the National Treasury to retain me as Chair. In May 2015, the Private Equity an Africa Fund Investment Panel at PIC was dissolved and merged to another Fund Investment Panel. The Private Equity in Africa Fund Investment Panel was getting close to be fully invested and had to get more allocation of funds from the GPF. I guess the timing was opportune to merge it with either FIBS.

My performance at the Davis Tax Committee also suffered considerably due to the decreased time I allocated to its work. So I received a letter from the Minister of Finance, which highlighted this difficulty and suggested that I resign. In July 2015, I resigned from the Davis Tax Committee. The reason I didn't resign from the PIC Board was based on some officials at the National Treasury who contacted me as they were preparing a submission for the renewal of my turn. The only obstacle to be dealt with at the time was based on the DPSA governance manual requirements and conditions placed on a Head of Department being on a Board of an entity under another government department.

This arrangement requires consent on both Minister to agree to that appointment. At the end of November 2015, I received a letter from the Minister of Finance thanking me for my contribution to the PIC. That marked the end of my three-year journey at the PIC. Incidentally I submitted my resignation to the Department of Arts and Culture due to the rising tension my approach to fixing things could bring me into conflict with the Minister there. And in December 2015, that marked my end to the official contributions to the Public Sector that I made to South Africa. And as an epilogue the journey into the Public Sector brought invaluable insights that culminated in the following initiatives that I am engaged with.

Subsequent, I spent time looking into building a Social Well Fund, the Nation Building Fund that would address issues that are raised by the Rhodes Must Fall and the Fees Must Fall Student Movements, by bringing innovative funding solution to the problems. And therefore as a result a book called Free Fall by Malcom Ray who was the business writer who worked with me on the PIC governance review, looked at the history of education in South Africa from 1836 to 2016 to be able to come up with solutions.

And then in 2016, I started hosting a 13-week programs for entrepreneurs called Reality Based Entrepreneurship, which is a practical program that capacitates diatabs(?), SSME's and entrepreneurs to understand realities that face them when running businesses. The program unlocks the inner wisdom and generate insights that are required to grow businesses exponentially by focussing on the inner side of entrepreneurship and also providing technical tools for them. And then 2018, I piloted a reality based governance program which is a practical program that capacitates black professionals to understand the realities that face them when leading governance within the private and public sectors.

Similarly the program unlocks wisdom and generates insights with which enable the Board members to grow businesses that they serve exponentially or accelerate service delivery in the public sector. And lastly, towards the end of 2016, I reflected on my journeys in both the public and the private sector and invoked my love of music to channel the various emotions into recording an album. So in 2017, I released a single titled, I will never find another here and now. Which is available on iTunes and Apple music amongst other channels.

As we speak the full album titled Sabela would be released in June. This completes the circle which started with the love of music and film which moved towards the public and private sector adventures to ultimately round off to a music album. This has not been a fruitless journey for me, but I harvested great insights along the way with the hope of helping others avoid the pitfalls encountered. It is in this spirit that I am willing to help the PIC Commission with its work by providing some of the documentation and insights from the governance review of 2014. And that concludes my statement.

ADV JANNIE LUBBE SC: Mr Commissioner it is clear that the man has made enough money to start his music career.

MR FRANS LEKUBO: But I wonder whether if it is jazz.

MR VUYO JACK: It is jazz indeed.

ADV JANNIE LUBBE SC: But before I let it go I need to ask him a question I missed and I need your guidance and assistance to the Commission seeing that you served on this Audit and Risk Committee. In your view with an institution like the PIC, what do you recommend? Is it advisable to have one Committee or should there be a separation between the Audit Committee and the Risk Committee?

MR VUYO JACK: Based on the experienced I have had with National Treasury, it was prudent to have the Risk Committee being separate and have the Audit Committee separate due to the volume of issues that have to be dealt with by two committees. The risk of conflating the two is that you might find more audit matters being dealt with than risk matters. And therefore it forced us at the PIC to even have risk workshops or risk, extra risk related engagements because within the normal program we could not be able to accommodate fully the risk issues.

So one would recommend that if you had separate Risk Committees and a separate Audit Committee, you would be able to fully deal with the issues without having to rush. But there must be a confluence at some point where the Chief Risk Officer with the Chief Audit Executive can be able to make sure that they talk together, because the work of the Internal Audit must be highlighting and trying to mitigate the work that has been highlighted as risk areas by Risk Committee. So by giving them separate, keeping them separate it just gives them enough room to actually work through the issues.

MS GILL MARCUS: Just on that, yes I agree that the question should be if they are separate, how do you coordinate? But what I have seen elsewhere is an ex officio position that by virtue of being the Chief Risk Officer you sit on the Audit Committee and by being at the virtue of being the Internal Auditor you sit on the Risk Committee.

MR VUYO JACK: Absolutely spot on. As a Chair of the – when I was a Chair of the National Treasury's Audit Committee, I was sitting on the National Treasury Risk Committee, similarly the Chief Risk Officer and the Head of Risk was sitting in the Audit Committee. And that enables that cross pollination and being able to highlight the issues that must be covered for the organisation in a comprehensive manner.

MR FRANS LEKUBO: Can I go? Just here, I got about four questions, four quick questions. Lets start with the first one. You said that you couldn't get Dr Matjila to participate in the governance process or review. Why do you think you could not pull it off? I mean given the fact that you went even to the Minister you know? Why could it not be done? What could have been the issues there?

MR VUYO JACK: I have no clue. At some point I thought am I not persuasive enough? Is this a personal issue? I have no idea why I was not able to engage with him and also to get the Chair to get the Shareholder to say, you need to engage on this. And so I don't have a reason why we are not able to do that.

MR FRANS LEKUBO: Next one is, you left Government in repeat succession. You know like resigning from various bodies. Was that a normal process or were you pushed or what were the issues there?

MR VUYO JACK: Sir I was not pushed. In terms of within the PIC, there was not much contribution I could actually make because of the ultimately the Stalingrad approach is that you are not able to fully contribute and to have those recommendations taken and implemented. So in essence you are fighting a losing battle. So but the term ended naturally, so I did not resign. And with regards to other positions, similarly with Treasury, I was not able to add more value because my attention capital was absorbed within Arts and Culture.

And there were lots of issues to be dealt with in Arts and Culture. And then of course I left Arts and Culture because I realised that there is such resistance at times on pushing certain things in terms of streamlining processes and so forth that could lead to a collision course. So and therefore one said I need to conserve my energies and focus where I can be able to add maximum value.

MR FRANS LEKUBO: Next one. PIC processes normally seem to be really paper-based and delegations and permissions and all these issues. I mean don't you think in these digital age the processes should sort of transition to electronic means and all that?

MR VUYO JACK: I think there was a move towards, at least for the Board meetings we were able to receive our Board papers and for the sub-committee meetings we were able to received them electronically. But one of the best practices and that is what we saw with CalPERS is that there is visibility of when you apply, there is a visibility of the applications, their requirements, how far they are. If there is a decline, why is it decline? So that kind of transparency and furthermore there is huge transparency in terms of the Board meetings that they are televised so you can go online and actually see previous Board meetings and the Board meetings that are going to be happening going forward.

What they don't do of course in order to preserve the confidentiality of the investments, they don't discuss investment merits or particular deals because there could be competitive issues. However, in terms of processes, how they run their Audit Committees, how the minutes of the – or the sub-committees that do not involve investments, that deal with the operations are public. And therefore people can be able to hold them to account to saying, hang on this is a policy you have. Let us say on politically exposed people, now why are you not applying it?

So that kind of transparency we don't have. And it is already done in other parts of the world where there is that electronic transparency in terms of the undertaking of the business of investments. And so PIC at the time wasn't there yet, but in terms of the Board packs and so forth it was able to start that electronic journey.

MR FRANS LEKUBO: The final question from me is about Board skills, you know skills of the Board. If are there anything you might want to say about skills of the Board of the PIC, broadly what they are? What they should be?

MR VUYO JACK: Absolutely. Before you even assemble a Board you need to be able to say, you need to have resident in this Board skills around risk, skills around investment proficiency, skills around governance, skills around human resources and therefore when you do make your Board appointments you are tracking that against the needs of the Board. And it shouldn't really be about affiliation to say, I represent the employers or labour, because at the end of the day there is one mission to maximise the returns of the underlying investments and therefore you need skills that go beyond the organisation that you are representing.

And that is a first element and you build on that the independent mindset. You see when you go and sit on the Board, you have to be able to bring yourself there in an independent mindset. If you do not agree with certain things, you should be able not to have fear that I should not be able to state something that might be disagreeable to everyone else. But you should be able to have that state of mind that says, I am going to be expressing myself. That is how you are able to apply your integrity as a Board member.

However, unpalatable some of those views are, and then be convinced based on the principles, based on the merits of the argument to be able to say, okay I can be persuaded otherwise because I can argue both sides very well. And if you do not have that in the Board and you have where decisions are made and Board members that just agree to everything without critically interrogating things, that is where you are increasing the risk. Therefore the skills of the Board must be such that they are able to be themselves to be able to express their minds, without the fear of saying, of being seen to be disagreeable.

So it is sometimes okay to be disagreeable because it is for the greater good of the organisation. And it is not about the personalities, because personalities come and go, but that organisation and the legacy you leave as a result of you being a Board member must stand for itself to saying you stood for what was in your mind, what was right and you were able to express yourself. So those are the qualities that you would actually require that critical ability to evaluate things.

MR EMMANUEL LEDIGA: Thanks from my side, thank you very much.

MR VUYO JACK: Thank you.

MS GILL MARCUS: I think the question that I would ask you in a way, because a lot of what you presented quite appropriately covers the period of time you were on the Board. Given the issues now and changing technologies, changing global environments, challenges that global economies face, asset managers face, have you thought about the role of an asset manager of the type that PIC is in today's world looking forward?

MR VUYO JACK: Yes, so given the fourth industrial revolution to changes and well effects you have two elements, first the investments that you look at, you need to be able to have a capability to evaluate whether those investments are going to earn you money so therefore your domain expertise as an asset manager needs to just go beyond what is known for the first three industrial revolutions, you need to be actually wide and be able to be engaging. You need to have a robust research mechanism to be able to look at the assets that you're going to be investing in because a rule for investment you can never lose money if you can, so try to minimise the loss of money and absolutely want to increase your returns because that is how we will measure you as an asset manager. So therefore you ability to be well versed in the domains that you're going to be investing in is really critical and which is … (intervention)

MS GILL MARCUS: If I could just ask you in relation, sorry to interrupt because you mentioned a very critical question and that is research capability.

MR VUYO JACK: Yes.

MS GILL MARCUS: Because there is a, does the PIC have sufficient research during your time or if you're aware of anything subsequent, research capacity and there's two elements to that. Research capacity in relation to the deals but research capacity in relation to the environment, they're two different things.

MR VUYO JACK: Absolutely, that was one of the critical aspects that came out when we engage with listed team to saying that the research capacity was limited and therefore certain actions that might be taking place if you do not have that robust research capacity you will not be able to then effectively measure the efficacy of that investment decision. And also part of the innovation lab was to start looking at how do you enhance your research capacity to start thinking on topics like disruptive innovation, topics like the imperatives of the national development plan because those are outside elements that you need to be aware of to saying given this tight space we don't want to lose money and if we then go into more developmental aspects how do we mitigate that because it doesn't mean that you're necessarily lose money by looking at transformation but you can find ways of how you mitigate that. So there wasn't that robustness at the time.

And how did it come across? Because you'd ask questions in the investment decision so if it was brought into your fund investment panel and you'd find that some of the people would not know what disruptive innovation is and what are the elements that they need to be looking for as they do the due diligence and also to be able to say how would we report on the imperatives of the national development plan in terms of jobs that are created, impact that is made, not just looking at the BEE scorecard but beyond that. So it wasn't there and part of the recommendations was that you need to build this capacity that's why it must mean something to work at the PIC because you have all this trove of knowledge.

But also there was no harnessing of the internal deals that have been done so whereby you take a meeting where you can sit by and reflect looking at our portfolio what have we done right, what have we done wrong, what are the lessons that we can then glean from this to be able to improve our processes going forward. That reflection did not take place and I fought for that in my fund investment panel to say we do need to have that time otherwise it's just going to be approving deals, deals, deals. But how do we know that we can harness some lessons, there might be errors we've made so with hindsight how do we know that we can be able to beef up so that becomes important.

And then the question of the asset managers in the current environment you have to be able to be agile, you have to be able to look at disruptive forces because when we look at economic growth in South Africa where is going to come from? We should be looking to our investment asset managers, and investment managers to be able to say in your frontiers are you seeing kind of market creating innovations that we can we be able to harness that in, we can find them at the formative stages and be able to manage so that it can be sources of economic growth. So you have to be able to have that depth of view and sight of what are those emerging issues that you need to be able to harness as an asset manager. And those were some of the difficult areas to get certain elements of the PIC to understand.

MR EMMANUEL LEDIGA: Just as a follow up question, the PIC has got the bulk of its assets, you know the GEPF, PIC nexus they've got a large chunk of the assets in listed companies.

MR VUYO JACK: Yes.

MR EMMANUEL LEDIGA: And of course we know why, good dividends, good cash flows, stable companies, blue chips, but those companies don't create jobs generally you know they don't create jobs. So do you, where do you think the GEPF and the PIC what percentage of their assets should be in unlisted companies that are future focused and should be creating the next generation of jobs and all that?

MR VUYO JACK: It's difficult to give you a percentage because that is influenced by the capacity of the team that is going to be deploying that capital. So if your capacity from an intellectual and technical perspective is not robust enough you're not going to make money even if they can identify the right areas but you're going to lose money so therefore you do need, that's why when you look at asset management it's a people's business, you have to be able to attract the top brains, the top players, I call it the Simba's of pride rock when you look at the Lion King, that are going to really be able to find frontiers of growth. And right now it's difficult to say because at the time that robustness in terms of the skill was not really unleashed and some of the people actually were attracted to the PIC but because the environment was not such that they can actually be Simba's of their pride rock they left.

So that is dependent on firstly the skills and then you have to then, you can't put a bulk of the money until you've tested the markets and be able to test the capacity of managing those risks and with greater returns that they show then you give them more capital and you have to allow room for failure because you can't expect to be always winning. So that intolerance of failure is also a problematic thing because people never then glean insights into okay we failed on a small deal how can we learn so that we can make more money and recoup the losses that we had on the smaller deals. So until you're able to have that robustness you cannot, given the risks that are involved in the liabilities that could be coming on the pension side, to then deploy too much if the bench strength, the management bench strength is not as robust as it can be.

MR EMMANUEL LEDIGA: Thank you.

CHAIRPERSON: Well it looks like that is it. Thank you so much Mr Jack for you time and the type of evidence that you've given us or placed before us, it's really enlightening particularly for me who knows very little about investments, probably because judges never earned a lot of money. But thank you for your time I just hope that more people will be able to come forward seeing that you have been here. Thank you once again.

MR VUYO JACK: Thank you Chairperson.

ADV JANNIE LUBBE SC: Chairperson thank you. I had another witness ready for this afternoon but because of reasons which I would prefer not to disclose that didn't materialise. I'm going to lose about an hour this afternoon but I plan to make it up tomorrow and Wednesday so this is the business for the day.

CHAIRPERSON: Yes thank you. It means we will adjourn until tomorrow morning at 10.

INQUIRY ADJOURNS TO 5 MARCH 2019