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20

PROCEEDINGS HELD ON 23 APRIL 2019

CHAIRPERSON: Good morning, everybody.

ADV JANNIE LUBBE SC: Good morning, Mr Commissioner and members.

CHAIRPERSON: I hope everyone had a restful weekend.

MR DANIEL BURGER: Good morning, Commissioner. Thank you very much.

CHAIRPERSON: Can I just record our apology for starting a bit late? It does happen that at our age somethings get forgotten. Yes.

ADV JANNIE LUBBE SC: Yes, indeed. Thank you, Mr Commissioner. I have great understanding for that. As discussed previously, Mr Mahloele arrived from London this morning. He is still suffering from the effects of that flight and by agreement with my colleague and if it is okay with the Commission, we will start with Mr Moleketi's evidence and we can later then finish the evidence of Mr Mahloele.

CHAIRPERSON: Mr Moleketi, your full names please.

MR PHILLIP JABULANI MOLEKETI: Phillip Jabulani Moleketi.

CHAIRPERSON: Is it the Phillip with the one L or the double L, sir?

MR PHILLIP JABULANI MOLEKETI: Double L, sir.

CHAIRPERSON: Double L. I do not know Mr Burger, whether you – if there is anything you would have loved to place on record before you get to Mr Moleketi?

MR DANIEL BURGER: No, Chair. There is nothing. There is nothing that I wish to place on record.

CHAIRPERSON: Do you have any objections to taking the prescribed oath, Mr Moleketi?

MR PHILLIP JABULANI MOLEKETI: Affirmation.... I have no objections.

CHAIRPERSON: No objection?

MR PHILLIP JABULANI MOLEKETI: No objections, sir.

CHAIRPERSON: Do you then swear that the evidence you are about to give, will be the truth, the whole truth and nothing but the truth? Raise your right hand. Say, so help me God.

MR PHILLIP JABULANI MOLEKETI: So, help me God.

PHILLIP JABULANI MOLEKETI: (d.s.s.)

CHAIRPERSON: Thank you. You may be seated.

MR DANIEL BURGER: Thank you, Chair and members of the Commission. Mr Moleketi, you have before you a statement prepared by you which runs from page 1 to 15. Do you have a copy?

MR PHILLIP JABULANI MOLEKETI: Yes, I do.

MR DANIEL BURGER: Chair, unfortunately, we do not have a spare copy to have signed for the Commission. We can ask Mr Moleketi to sign one of your copies or we can hand up a signed copy later in the day.

CHAIRPERSON: That is fine.

MR DANIEL BURGER: If that suits you. Thank you. Mr Moleketi, you have read the statement?

MR PHILLIP JABULANI MOLEKETI: I have.

MR DANIEL BURGER: And you confirm that its contents are true and correct?

MR PHILLIP JABULANI MOLEKETI: I do.

MR DANIEL BURGER: I am going to follow the same course as we did

with Mr Mahloele. I am going to ask you to begin reading your statement and then at points I will stop you or the Commission will stop you and ask questions.

MR PHILLIP JABULANI MOLEKETI: Okay.

MR DANIEL BURGER: The floor is yours.

MR PHILLIP JABULANI MOLEKETI: Thank you. But allow me counsel just as a preface to deal with a matter, Chairman that was raised on Tuesday, last week when Mr Mahloele was delivering his statement?

CHAIRPERSON: Can you just pull the mic closer to you?

MR PHILLIP JABULANI MOLEKETI: Ja.

CHAIRPERSON: That is right.

MR PHILLIP JABULANI MOLEKETI: In that matter, it is a matter which I think is quite important. It was raised by Advocate Lubbe. It is a matter that deal with experience and I think it is important, it was experienced when it relates to whether or not the team that we put together had the adequate experience.

I would like to address this matter and in addressing this matter, I would like to draw on the practical experience that South African went through in establishing institutions post 1994.

Institutions of government; institutions in parliament and institutions of the state. We all know that if we were to take a hike through the forest, the Amazon Forest, would prefer to be guided and to be lead by someone who has done it before.

I think it is human. Or if we are on a flight, be it flying to New York or London would prefer to have a pilot who has a thousand of flying hours and that gives us comfort as human beings and I think

experience is important, Chairperson.

But let us reflect on the South African experience. The first ten to fifteen years of South Africa we had a situation where the institutions of states being the DG's and the ministers, where people who would classically be termed as inexperienced.

I am talking here about people like Alec Owen. Alec Owen was a trade unionist. He led trade unions. He built trade unions, but he had no experience of leading a department or being a minister. I will talk about Trevor Manuel who also had no experience, except just being a leader of the United Democratic Front. And all of them had no experience.

I will go on. I will talk about Geraldine Fraser Moleketi. Falls within that category of people.

CHAIRPERSON: We take note of that name.

MR PHILLIP JABULANI MOLEKETI: Thank you very much, Mr Chairman. And the most important thing also. We had very young, 35-year olds who were leading government departments. Here I talk about *Robertson Rameti* who was in the Department of Public Service and Administration.

And I will also reflect on the activities and the initiative and innovation of Doctor Euguene... I think it is Eugene Watson. Who set up GEMS. GEMS, it is a health scheme that extended health benefits to lower echelons of the public service. He was also just around 35 or so.

And I am saying those people before that, they have never had an opportunity to be given this type of task. They never had any

experience that one would talk about. But what has happened since that, to cut a long story short.

We have centres of excellence that were set up by these people who do not fit the category of experience. Be it the National Treasury. Be it SARS. Where people who negotiated the most complex trade agreements under the WCO.

Under the leadership of Minister Alec Owen, led by Dr Alistair Ruiters and I am saying, these are all the people who are termed not be experienced. But we talk about the institution. We talk about trade agreements. We talk about centres of excellence. We talk about GEMS.

And I am saying, what I want to argue is that the issues around experience are much broader than they were raised in a narrow form on Tuesday last week. They talk about the capacity. It is about leadership.

It is a type of leadership that is able to understand the objectives. A leadership that is able to put in place a plan. A leadership that is able to put together a team to undertake significant and major socio-economic projects. And as I sit here, I have doubt in my mind that when we are talking about PAIDF1. When we talk about PAIDF2. When we talk about Harith.

They fall in that category of excellence. What Harith did was to make a contribution to face of our continent or our mother continent, Africa through infrastructure development. They came in.

The only thing that they had was the desire and the will and we-can-do attitude, which is quite important, Chairman in terms of

undertaking, particularly pioneering work in any area of social activity.

And I am saying that is one of the areas that I want to indicate. That it should actually be, let us applaud the Harith team for being the first on the continent to have a fifteen year fund and to successfully deliver on the infrastructure that being to change the face of our continent.

And I thought it is quite important at this point to make those remarks, because when everything is said and done, there will also be a group of people who would look at us when we start such initiative and who is also looked at Minister Trevor Manuel when he was assigned the task, that he is a rookie.

You know, he is a rookie. He is ...[indistinct]. He has never done it before and who even worked when the ...[indistinct] say, these fellows cannot even organise a piece up in the brewery. That is the attitude that they confronted, but because we had a we-can-do attitude, we are able to overcome that and we have something to show and this is the story of Harith.

This is the story that I think needs to be told and at this point, Chairman allow me therefore to go back to my statement, having said that, because I would it will be quite important to make those opening remarks to say the context and the feeling and the views that we have about the work we have done, what has been achieved. Regardless of what other negative publicity or perceptions we have.

“I have stated, Chair that my name is Phillip Jabulani Moleketi. I am 61-years old. I am a businessman. I am a non-executive director of Harith Fund Managers

(Pty) Ltd. Harith General Partners. I was a chairman of HFM until April 2012 and I am the chairman of HGP. I am also the non-executive director of Lebashe Investment Group (Pty) Ltd. I hold an Advanced Management Programme qualification from Harvard Business School. A Master of Science and Financial Economy. It is a Postgraduate Diploma in Economy from the University of London.

As a member of the ANC, I served in various positions from 1994 to 2008. I was a member of the Executive Council of Finance and Economic Affairs in the province of Gauteng until 2004, when I became the Deputy Minister of Finance. Just on Gauteng.

One of the key things that we did, besides just setting up a provincial government from scratch, we set up a fund that was called an Infrastructure Fund. It went by the name of Blue IQ.

It is that fund which was conceived under my leadership that was able to deliver a product like the Gautrain today. The iconic bridge, the Nelson Mandela Bridge in the CBD of Johannesburg. The Constitution Hill Precinct and a number of infrastructure projects.

Paragraph 5:

During my term here as the deputy minister, I served *ex officio* as the chairperson of the PIC. This was not

a matter of my own choosing. It has also being and it remains the custom that the Deputy Minister of Finance sits as a chairperson of the PIC.

During that period, I gained exposure to and experience with all kinds of investments and expertise, which in turn, permitted me after 2018 to take up several positions on the boards of a number of companies.

I am currently a non-executive chairman of Pretoria Portland Cement. PPC for short. Limited. Brait Societas Europaea which is listed in Luxembourg's Stock Exchange with a secondary listing on the Johannesburg Stock Exchange.

I am a non-executive director of MMI Holdings Limited, Aluwani Capital Partners (Pty) Ltd.

In the telecommunications industry, I serve on the board of the Vodacom Group (Pty) Ltd and the chairman therefor....”

CHAIRPERSON: Is MMI Maponya Investment?

MR PHILLIP JABULANI MOLEKETI: No, it is Metropolitan Momentum Insurance.

CHAIRPERSON: I see. Because I have seen another MMI somewhere.

MR PHILLIP JABULANI MOLEKETI: Yes. This was a measure of the two insurance groups, Metropolitan and Momentum.

MR DANIEL BURGER: Mr Moleketi, can I just correct you?

MR PHILLIP JABULANI MOLEKETI: Sure.

MR DANIEL BURGER: At the top of paragraph 6 you said after 2018, but you actually meant 2008.

MR PHILLIP JABULANI MOLEKETI: Actually 2008.

MR DANIEL BURGER: Which is when you resigned as the Deputy Minister of Finance.

MR PHILLIP JABULANI MOLEKETI: Absolutely. Thank you. Thanks a lot, counsel.

“I served three terms as a director of the Development Bank of Southern Africa...

Can we correct? Not South Africa. Southern Africa.

“...and was its chairman until the 31st December 2018 when I retired or resigned. While I held the position as Deputy Minister of Finance, I never held any private corporate interest or position. This was and is a requirement of all ministerial positions.

On the 20th March 2019, Mr Bantubonke Harrington Holomisa, the President of the United Democratic Movement and a member of parliament appeared before this Commission to give evidence.

Mr Holomisa presented a statement to the Commission titled “Opening remarks of Mr B H Holomisa, MP a ...[indistinct] president testimony have him party Commission of Inquiry on the 20th March 2019 in Pretoria”

In that statement, he makes several allegations, both implicit and explicit of impropriety against me and

others. I would like to deal with those allegations within the context of my overall historical position as regards the PIC and insofar as they concern me in my evidence before the Commission.

It will be seen from my evidence that Mr Holomisa's allegations are not only heavily disputed and without any factual support at all, but also that there are gratuitous defamatory and severally damaging to me and the others he mentions.

Even more seriously, it will become obvious that Mr Holomisa has long been aware of all these facts and effects, but he has, nevertheless, persisted in the allegations, while concealing from the Commission, both the fact that they have disputed at length and under oath and his knowledge thereof.

It is not the first time, Chairperson, that Mr Holomisa has made such allegations.

What he has failed to disclose to the Commission, as required by Rule 6.5, was that there was an urgent application launched on the 5th July 2018, out of the North Gauteng High Court by myself and others against Mr Holomisa and the UDM.

This came in the wake of the publication of numerous media of defamatory allegations by Mr Holomisa and the UDM of and concerning me and others.

Messrs Tshepo Mahloele, Warren Wheatley, HFM,

HGP and Lebashe, all of whom were applicants in the urgent application.

The allegation with which that application was concerned were exactly of the same ilk as the allegations which Mr Holomisa has now repeated before the Commission.

Primarily about looting sprees against innocent public servant's pension. A cartel of PIC beneficiaries. Conflicts of interest. Although differing slightly with their detail, the infective having being toned down somewhat in the latest incarnation before the Commission.

The application was opposed at length by Mr Holomisa and the UDM. Full papers were filed and full argument was heard over a period of an entire day.

We were ultimately successful in obtaining the relief we sought. Mr Holomisa and the UDM were interdicted from defaming the applicants and were ordered to remove and delete the defamatory material from the platform on which it was published.

An application for leave to appeal has been delivered which is yet to be heard. A copy of the application and the detailed judgment from Ms Justice Tlhabi, granting the interim interdict and further relief sought, will be made available to the Commission....”

MR DANIEL BURGER: Mr Moleketi, can I just interrupt you for a moment?

MR PHILLIP JABULANI MOLEKETI: Sure.

MR DANIEL BURGER: Chair, for record purposes, the judgment of Justice Tlhapi starts at page 375 of Exhibit 1 all the way through to page 396. Yes, the order starts at page 375 and that is followed by the reasons for judgment. Thank you, Mr Moleketi.

MR PHILLIP JABULANI MOLEKETI: Sure.

Paragraph 14:

“Curiously, as it appears, at pages 3 of 29 of the transcript of his evidence, when it was put to him by the evidence leader, Advocate Lubbe SC, whether Mr Holomisa was involved in litigation. He only disclosed a litigation launched by himself against the Deputy Minister of Finance in his capacity as a chairperson of the PIC for the removal Dr Dan Matjila...”

CHAIRPERSON: Just to mention that Advocate... It is Advocate Lubbe.

MR PHILLIP JABULANI MOLEKETI: Lubbe.

CHAIRPERSON: SC. Yes.

MR PHILLIP JABULANI MOLEKETI: Ah, yes. I struggled with it. I practiced the whole of yesterday, but I sort of slip. Lubbe. Thank you, Chair.

“At the time of disclosing the above, Mr Holomisa have the opportunity to inform the Commission about

the litigation between us and him and he studiously avoided any mention of the litigation and what we had revealed in relation to the allegations he made.

The gravamen of Mr Holomisa's evidence insofar as it relates to me, is that by virtue of my ten year as Deputy Minister of Finance and thereby the *ex officio* chairman of the PIC.

There exist a conflict of interest, because he claims, on the strengths of facts and circumstances not yet disclosed, that I improperly used my position at the PIC to advance my private commercial interest.

I understand that one of the purposes of me giving evidence before this Commission is to answer the allegation made by Mr Holomisa. I shall try my best to do so, Chairman.

The problem, however, is that there are no facts or concrete circumstances alleged by him to support what he states. What he states is in fact a serious of suspicions, speculations, suppositions drawn, it seems, from appearances only and resulting from a gross misunderstanding of the true manner in which the people, the companies and the institutions he attacks, in fact, function and conduct themselves.

On the one hand, he claims the right to make these allegations as if they were conclusive statement of fact in a public forum. On the other, he seems to

admit that he has not got the tools to find out the true facts and is only asking questions.

It is very clear, however, that he is not only asking questions. The sting attached to the question is such that they appear as statement of fact. This is precisely how he wishes them to be read in the media, which in turn, as he always intended have apply met his expectations.

These public statements are a direct attack on the integrity and propriety of the other applicants and of myself and go to the root of our positions. They seriously endanger the relationship of trust and confidence so necessary in our professional lives which we have spent so much effort and time in establishing.

I would like refer merely to one example. To the headline and the front page article of The Star of the 22nd March 2019, stating *“Holomisa drops PIC bombshell. UDM leader lifts a lid on dodgy fund dealings”*.

The article proceed to reproduce in detail all the allegations and speculations put by Mr Holomisa in his evidence before the Commission. His motives are obviously ulterior.

We all know an election is coming in almost less than a month's time, but there seems little purpose in

speculating further what these may be.

The lack of any hard factual material, notwithstanding the length and breath of the unrelenting conjecture and invective indulged by Mr Holomisa, makes it very difficult to know quite how to set the record straight.

There is nothing of substance to which one really can respond specifically. Save to give the correct history of events and to indicate as clearly as possible how we conduct ourselves and what our environment entails.

Having been, since 1994, the MEC for Finance and Economic Affairs in the province of Gauteng and in 2004, I was appointed the Deputy Minister of Finance by President Mbeki.

In that capacity, as I have said, I became the *ex officio* chairman of the PIC and the non-executive director thereof. I remained in that position until the 25th September 2008 when I resigned, following the recall of President Mbeki...”

CHAIRPERSON: Can I just ask why you use the term *ex officio*? Were you not actually the chairman and that is it?

MR PHILLIP JABULANI MOLEKETI: My chairmanship was by extension of being the PIC – of being the Deputy Minister of Finance. I think it describes as much as possible that relationship. That it was not like other directors who sat with me, who were nominated independently.

And normally what happens is that, it is the function and the duty of the directors to elect amongst themselves the chairperson of a board and hence, somehow, this is a shorthand to describe that peculiar relationship.

CHAIRPERSON: Which really is by virtue of the fact that I was Deputy Minister. I became the chairperson of the PIC.

MR PHILLIP JABULANI MOLEKETI: I will take that so. Thank you. Thank you very much. I am on paragraph 22.

Paragraph 22:

“Towards the end of 2004, President Mbeki articulated the vision of the private sector playing a key role, together with government by investing in the future development of infrastructure on the African continent....

At this point, I would like to refer to Exhibit 3, page 7. It is a document that was referred to Mr Mahloele’s evidence. Page 7, which is the introductory paragraph. I would just like to read which is paragraph 2. It reads as follows:

“As a result of the challenges facing infrastructure development in Africa, His Excellency, President Thabo Mbeki observed that a study of nine civil service pension funds on the continent reveal that they collectively held more than a 120 billion US dollars, leading him to remark

“If we were to agree amongst ourselves to set up an African infrastructure fund, a possibility exists for us

to start taking our fate as Africans in our own hands. This will give us the possibility to use our resources, perhaps with leverage from the African and international private sector to deal at least in part with our developmental challenges”

This is part of the document that was motivating the setting up of ...[indistinct]. It is a document of the 11th November 2005.

This was in line with his ideal of an African Renaissance, as I understood it. The fundamental aim was ultimately to make Africa self-sufficient, raise it out of debt inter alia, by creating its own capital and generating its own wealth.

This became one of the guiding principles and ideals which I was tasked with implementing. The part...[intervenes]...”

MS GILL MARCUS: Can I ask a question there?

MR PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: Thank you. When you say you were tasked with implementing and the ideal, who tasked you? Because clearly this is a vision of the president and from the evidence heard from Mr Mahloele last week, a number of the African pension funds did not come to the party. It was an ideal. So, if we look at this, was it – who tasked this and was it in writing?

PHILLIP JABULANI MOLEKETI: Thank you, Commissioner, for that question. It was not in writing as Mr Mahloele answered on Tuesday but

quite obviously the PIC had clearly undertaken within itself and also explained with a number of documents the approvals from the different ministers that clearly indicates it was a task at hand and as a Chairperson of the PIC with the PIC quite obviously that task also fell on my shoulders.

MS GILL MARCUS: And the discussions as you referred to the memo on page 7 with the GEPF, were they fully supportive and did they give that mandate to you in writing?

PHILLIP JABULANI MOLEKETI: Come again?

MS GILL MARCUS: The PIC, you've indicated as the PIC you took this on board.

PHILLIP JABULANI MOLEKETI: Yes.

MS GILL MARCUS: But it is the GEPF mandate that you execute in many ways.

PHILLIP JABULANI MOLEKETI: Yes, sure.

MS GILL MARCUS: So your memo on page 7 that you referred to a few minutes ago was a memo to yourselves – from yourselves to the GEPF.

PHILLIP JABULANI MOLEKETI: Correct, sure.

MS GILL MARCUS: GEPF, as I understood it, chose to invest directly.

PHILLIP JABULANI MOLEKETI: Absolutely.

MS GILL MARCUS: And therefore the role of the PIC in relation to that as a mandate, if the GEPF reflected direct – invested directly in this fund, whose funds did you invest in as the PIC to deal with the vision? So there was no written instruction, it was the interpretation of government to implement the vision of the present at the time.

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: And therefore in that capacity as the PIC, the relationship with the GEPF which invested directly in PAIDF1 and 2 and what role did the PIC and its mandate play in that investment, if any?

PHILLIP JABULANI MOLEKETI: Okay. Can I separate in dealing with that question? There are two sets of questions, areas that I would like to highlight. The first one is that we cannot at any point take away the whole vision and the initiative from the PIC, I think that's one. The PIC was the initiator, was a pioneer in pioneering this view.

The second aspect, was that as explained by Mr Mahloele on Tuesday was that initially it was thought that the funds will come through Isibaya. That was the initial thought. But the GEPF thought differently because they are the custodians of the savings of the pensioners that in this instance we are going to invest directly but of importance is that the objective was achieved.

MS GILL MARCUS: I want to stay with that a second because a vision of that nature as articulated by the President at that time is one thing, the PIC mandate is surely to ensure the best returns to the GEPF pension fund.

PHILLIP JABULANI MOLEKETI: Absolutely.

MS GILL MARCUS: And therefore an interpretation of this nature as you've just articulated it, could be in conflict with that. It need not be but it could be.

PHILLIP JABULANI MOLEKETI: Well ...[intervenes]

MS GILL MARCUS: If you're interpreting ...[intervenes]

PHILLIP JABULANI MOLEKETI: No, we can – we can ...[intervenes]

MS GILL MARCUS: No, if you're interpreting a vision of the President to

say we must implement that, if the President – I'm not saying that this occurred but if the President – his vision, as we've subsequently is very different, you interpret it and say well, that's the vision of the President, yes or no, and you don't just go and do it. The question has to be a balance between the vision and the returns.

PHILLIP JABULANI MOLEKETI: No, absolutely because at the end of the day I think the mandate of the PIC and any pension fund for that matter is to a large extent to ensure that at any point the pensioners are not disadvantaged, that to protect their savings and I think that is sacrosanct, it's ...[intervenes]

CHAIRPERSON: That they're in fact advantaged.

PHILLIP JABULANI MOLEKETI: Pardon?

CHAIRPERSON: That they're in fact advantaged.

PHILLIP JABULANI MOLEKETI: Yes.

CHAIRPERSON: That's the ...[intervenes]

PHILLIP JABULANI MOLEKETI: Yes, absolutely, you know? That's one thing, you know? But the second aspect, the issue around infrastructure being an asset class, it's a matter that has been debated in a number of forum international. It is a type of an asset class that guarantees not the types of return that switch off the lights but that saves the capital and brings on board reasonable returns. An infrastructure, unlike when you talk about the issues of equities, you know, it seem as part and parcel of some of the safer investment opportunities particularly that draws within it because it's long term pension funds because pension funds have patient capital but the returns – we're not gambling with the returns, we knew where the returns are and Mr Mahloele dealt with the issues of

returns. It is a safe asset class.

MS GILL MARCUS: I would say that's questionable.

PHILLIP JABULANI MOLEKETI: Okay.

MS GILL MARCUS: I think that that is something that is very debatable especially when it is innovative and so on, so it's a question of the balance of risk, the balance of risk to the pension fund and the question of opportunity or – the opportunity of returns that you might forfeit of a different level, so it is a debatable question, I would not say it's a guaranteed fund that because it's infrastructure it's safe, I would not agree with that but be that as it may, it's your motivation and I just, for the purposes of this hearing, it is to understand the motivation.

PHILLIP JABULANI MOLEKETI: Okay and – sure.

MS GILL MARCUS: I just want to be sure that this was an interpretation by the PIC, there was no written instruction.

PHILLIP JABULANI MOLEKETI: There was no written instruction, sure. Where were we?

MR DANIEL BURGER: Mr Moleketi, can I ask you a question before you go on?

PHILLIP JABULANI MOLEKETI: Ja.

MR DANIEL BURGER: Are you able to explain in what circumstances the GEPF could take a decision independently as it did in relation to PAIDF1 and 2 by investing its money directly and in other circumstances it was the PIC that decided what to do with the GEPF money. So how was that balance struck between the GEPF deciding independently and at times the PIC making the decisions?

PHILLIP JABULANI MOLEKETI: I'll give the following explanation. It

might not be adequate because during the times of us raising PAIDF1 the PIC did not have an Africa mandate but the GEPF was the custodian of the savings and hence it could take that decision without changing at that point the PIC's mandate and I think that's one thing. Later on it did change ...[intervenes]

MS GILL MARCUS: Just sorry, just on that point.

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: Therefore can I ask whether that was the GEPF decision to invest at that point in time was a result of a discussion about that very question between the PIC and the GEPF.

PHILLIP JABULANI MOLEKETI: I wasn't – I don't want to speculate on it, I would say I don't know because I wasn't part and parcel of the executives that engaged the GEPF when it comes to that but I will assume that could have been one of the areas that was explored.

Going forward, I think the GEPF as the custodian has a right because the PIC is an asset manager of choice but not restricting the GEPF – and it has been a discussion in a number of bulletins from deciding on other managers of choice and I think it's an area probably in future that would be explored.

MS GILL MARCUS: Can I stay with that a second because it's a very important question given that the GEPF is a defined benefit fund.

PHILLIP JABULANI MOLEKETI: Yes.

MS GILL MARCUS: That if it was, as the GEPF, to determine a range of investment or investing entities other than the PIC could and would this have implications for the shareholder in terms of oversight and its obligation as the fallback position of fulfilling any gap, should there be

one, in the fund?

PHILLIP JABULANI MOLEKETI: If I understand your question, Commissioner, is that if the GEPF moved out of the current mandate of the PIC, being the sole asset manager, and in that ...[intervenes]

MS GILL MARCUS: Ja, not necessarily moving everything out but having a mix of asset managers?

PHILLIP JABULANI MOLEKETI: It's a possibility because one of things is that also when you look at the investments of GEPF funds or capital, it's also invested in a number of other asset managers, be it Allan Grays of this world and all that. Already as we speak, through the PIC, of course, already we speak they are managing that but the PIC ultimately is the one that is finally accountable to the GEPF in terms of the mandate. The mandate that defines the returns and the mandate that defines allocation, concentration, risk, you name it. That is – they're dealing with one service provider. If they had to deal with a multiplicity of service providers that will have other implication in as far as the GEPF is concerned, one of which would be that they must increase their capacity. To be able to manage there must – multiplicity of these – what would one say, service providers. That's one.

Secondly, because the GEPF also has a mandate around transformation, it means they had to give certain indicators to ensure that the service providers comply with all the transformation imperatives of the Republic of South Africa. So it's going to increase the complexity, it's doable, I must say, but it increases the complexity.

MS GILL MARCUS: But it would also have significant implications for the PIC. I mean, if you just take the question of the Chairpersonship, as

you've indicated, the Deputy Minister of Finance has through practice since '94, for different reasons, I would say, but has been the chair precisely because the shareholder is ...[intervenes]

PHILLIP JABULANI MOLEKETI: Absolutely, sure.

MS GILL MARCUS: The minister acts as shareholder representative for that, so it would have serious or significant implications for the PIC should the GEPF choose to do that.

PHILLIP JABULANI MOLEKETI: Ja. Theoretically yes, I think you are quite right, commanding officer. Theoretically it will have, but already the discussions probably that will also be informed by the work of this Commission is going to talk to the whole issue of governance, what is the most appropriate governance structure going forward that the PIC must have. There's been already a number of discussions, there's been a number of papers that were written on it but I agree with you that would definitely have implications.

MR DANIEL BURGER: Mr Moleketi, at the time of the GEPF decision to invest in PAIDF1 and PAIDF2, my understanding is that the Chairperson of the GEPF was Dr Martin Kuscus, is that correct?

PHILLIP JABULANI MOLEKETI: That's correct.

MR DANIEL BURGER: Do you know where he is at the moment?

PHILLIP JABULANI MOLEKETI: Well, we are in touch, he's in the private sector, he's an entrepreneur, currently he's an entrepreneur and I think he's doing well. I saw him about a month ago.

MR DANIEL BURGER: Chairperson, perhaps if he is available he might be a person who can answer some of the questions that Commissioner Marcus has raised.

CHAIRPERSON: I'm sure Advocate Lubbe has taken note of that.

MR DANIEL BURGER: Thank you. Mr Moleketi, would you continue please?

PHILLIP JABULANI MOLEKETI: I'm on paragraph 24, is it?

MR DANIEL BURGER: I think you're on 23, yes.

PHILLIP JABULANI MOLEKETI: 23:

“This became one of the guiding principles and ideals which was tasked to implement. The Public Investment Corporation Act No. 23 of 2004 was passed with the aim of expanding, modernising the PIC's mandate and to better enable it to invest the funds and promote of the fortunes of those whose interest it was meant to serve. The board of directors of the PIC was constituted under the Act and consisted chiefly of chartered accountants. Mr Tshepo Duan Mr Mahloele, one of the applicants referred to above, was the head of corporate finance and the Isibaya Fund at the PIC reporting to the then CEO of the PIC Mr Brian Molefe.”

MS GILL MARCUS: Sorry, can I just go back a second to your last sentence of paragraph 23 which is that it was constituted chiefly by chartered accountants.

PHILLIP JABULANI MOLEKETI: Ja.

MS GILL MARCUS: Is that a good or a bad thing? I mean, why would you choose – this is investments, investment skill – I mean chartered accountants is your balance sheet and your number and does the left hand column equal the right hand column and so on and so forth, an investment fund is – requires perhaps a slightly different skill in addition,

it's not excluding chartered accountants but we've seen from other corporates that a board full of chartered accountants does not necessarily see the wood for the trees. Why would you emphasise chartered accountants as the board?

PHILLIP JABULANI MOLEKETI: It was a matter of emphasis. If there are six of you on the board and four of you are chartered accountants.

MS GILL MARCUS: Is that good or bad is what I'm asking.

PHILLIP JABULANI MOLEKETI: Pardon ...[intervenes]

MS GILL MARCUS: Surely somebody who should understand the markets.

PHILLIP JABULANI MOLEKETI: You know – no, no, the board, the constitution of different board – I sit on different boards, it's one of the things that is required particularly through King IV is the need for diversity because people bring different skills on the board, you know? It can't just be people from a particular discipline that are dominant in the board, you know?

MS GILL MARCUS: That's why I'm asking the question.

PHILLIP JABULANI MOLEKETI: A bit of diversity, you know? A bit of diversity. I have nothing against chartered accountants, they are good friends of mine but I think you can do with other skills being on the board.

MS GILL MARCUS: I'm raising this in a serious sense, not just flippantly because the question of the skill of a board in relation to an investment entity or a company like the PIC that deals with the complexity of investments and part of our terms of reference is the governance and the competencies that are required for an effective board. So I was asking

here that it consisted chiefly of chartered accountants, I'm raising with you the question of was that the most appropriate way to do it and your response is, you actually need greater diversity.

PHILLIP JABULANI MOLEKETI: Ja because – you know, one other thing, just to elaborate on what I mean, you know?

MS GILL MARCUS: Ja, just before you do.

PHILLIP JABULANI MOLEKETI: Ja.

MS GILL MARCUS: I mean, was this constitution of the board of chartered accountants, in the board with chartered accountants be a deliberate decision to bring in accountants or did it just turn out that way? How did this happen?

PHILLIP JABULANI MOLEKETI: I think it was deliberate decision because these are appointed by the Minister of Finance, you know? But one of the things, just to elaborate on the point is that you have people who have investment finance skills which might be much more appropriate around when you talk about investments, you know? It's not just CAs. But the other people with financial skills that are quite diverse, you know? You have people who with the skills of primarily trained around portfolio management, you know, and I'm saying it's a balance, it's that type of balance. If I were to recommend now I would say in the PIC you also need people with to a large extent investments financial skills, you know, not just CAs, you know? But you do find CAs that are CAs and also they have investment financial skills, you know, so it's a – ja. So it's that type of, you know? It shouldn't be like someone is CA therefore, you know, it's – that's what I'm trying to say.

MR EMMANUEL LEDIGA: Just to add is that the board has changed

dramatically I mean since then.

PHILLIP JABULANI MOLEKETI: Absolutely, ja.

MR EMMANUEL LEDIGA: Ja, okay.

PHILLIP JABULANI MOLEKETI: And it has and it has brought other diverse – there's more diversity now than it was. Okay, ja, sure.

MR DANIEL BURGER: When you were Chairperson of – sorry, when you were Chairperson of the board, the other directors, were they all appointed by the Minister of Finance?

PHILLIP JABULANI MOLEKETI: Yes, indeed they were, sure. They all – well, ja, it's a process, appointed and approved through cabinet, you know, because there's normally a cabinet minute that indicates the appointments in different state-owned entities but the memorandum comes through the Minister of Finance to cabinet.

CHAIRPERSON: Since we are there, the fact that the Chair or Chairperson of the PIC is the Deputy Minister of Finance, is that a good thing or a bad thing?

PHILLIP JABULANI MOLEKETI: I'll be in trouble, you know, this is like between the rock and the hard place. [Laughs]

CHAIRPERSON: Just give us your honest opinion.

PHILLIP JABULANI MOLEKETI: There were times – I think it's a point that was made by Commissioner Marcus that because ultimately this is a defined benefit. Ultimately the treasury, the national fiscus is the custodian in the event that there's a shortfall, you know, and hence the involvement of the Deputy Minister of Finance to ensure that at least there's someone who is looking out for that, you know? But this point we've evolved with a whole range of skills in South Africa. We have

people who not only have skills but they have experience in the management of assets, in the management of the scale of assets that the PIC is having and I would say it can't just be confined to a Deputy Minister of Finance. I would rather have a situation where there's an open mind when it comes to this matter because I don't think there's any limitation of any skilled person who is not a public representative being capable of leading the PIC. In short I've tried to answer you, I tried to hedge my bet a little bit but I think I've tilted towards having someone who is not the Deputy Minister of Finance.

CHAIRPERSON: That's understandable, Mr Moleketi, thank you.

MR DANIEL BURGER: Paragraph 25.

PHILLIP JABULANI MOLEKETI: Ja.

“The PIC's management executive committee identified Mr Mahloele as the best person qualified to set up a fund known as the Pan African Infrastructure Development Fund, PAIDF, which was intended to be the primary vehicle envisaged in the ideal of President Mbeki. Mr Mahloele therefore resigned from his employment with the PIC in April 2006 in order to take up this task.”

MS GILL MARCUS: Sorry, can we just stay there a minute?

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: The implication of this paragraph is that there was no process to do a search or enquiry into the broader knowledge around South Africa of who could actually chair this or head this up. You take somebody from within the organisation, identified by the executive, to appoint them to take this role. Is that due process? Would that be

standard in terms of – and you're the chair at that point in time. Given the importance of this and where it's actually led to is in terms of the processes here would this be something that you would today say is appropriate? I'm not talking about the individual, I'm talking about the process, that there's no assessment of who in fact should take that up and you lose one of your skilled people heading a key element in the PIC to go and do something else without any query about can we look and see who is the best fit, who is broadly available from throughout. Is it just a question that you decree that and did it come to the board for approval, you as Chairperson of the board?

PHILLIP JABULANI MOLEKETI: Okay. I will in answering this question probably – I'll walk on the same path that Mr Mahloele walked, you know?

MS GILL MARCUS: I thought as Chair you might have a different one.

PHILLIP JABULANI MOLEKETI: No, no, no, no, no, I'll add my own - you know, I'll walk on that same path because I think there's consistency – you know, the truth, you can't turn it this way and that way, you know, it remains the truth, you know? But I'll start by referring to page 21 of Exhibit 3, paragraph 57 and 58, page 21, yes. Did I say 51? Page 21, ja. I think that this is the page that Mr Mahloele started by referring to, that indicates the process but it says:

“For the purpose...”

Paragraph 57 of the exhibit:

“For the purpose of establishing the reporting lines between now and up until the first closure of the fund a steering committee consistency of the following individuals has been appointed.”

And that steering committee included - Brian Molefe was the CEO of the

PIC at the time, Charles Okeahalam, a Nigerian, I'll come back to that, Paul Gomes, director World Bank from Guinea Bissau and Prof Wiseman Nkuhlu. At this point as explained by Mr Mahloele is that this fund was going to be set up primarily as a partnership to launch it between ourselves and Nigeria. I would like just to give flavour to this initiative, to reflect on a meeting which was convened by Minister of Finance Trevor Manuel on the sidelines of the World Bank IMF meeting in the fall I think of 2006, if I'm not – it could have been 2007 but – 2005, but I think it was 2006.

In that meeting he convened a meeting between himself and the Minister of Finance of Nigeria under President Obasanjo. At that time the Minister of Finance was Ms Ngozi and in that meeting there was – he was trying basically to bridge the gap between ourselves and the Nigerians, you know, to broker a deal. In that meeting, on his side, we had a delegation that comprised of Mr Mahloele, Brian Molefe and I on the South African side. On the Nigerian side it was Minister Ngozi, I think Charles was there and a number of her officials and it is after that meeting that we took a decision that in South Africa - for this thing to happen we must go it alone, you know, because we could not – he could not bridge that gap, he could not broker a deal between ourselves and the Nigerian partners.

The details of that I think will make an interesting coffee break conversations but safe to say it was basically that situation and we walked out of that and we said we are going to do it and we'll do it as South Africa with all other partners that will come and join us in that endeavour. It is – that is the context that led to the fact that Mr

Mahloele, who at that time was also part of the secretariat of the trust, that a decision was here is somebody amongst ourselves who has been involved in the genesis, in the genesis of this fund, who has been involved in the difficult negotiations including the one that I've just referred to. This to me, even as I sit here now, and I'm glad we took that decision, was the best decision that we could take.

MR DANIEL BURGER: Mr Moleketi, can I ask you a question going back to paragraph 25.

PHILLIP JABULANI MOLEKETI: Yes.

MR DANIEL BURGER: Paragraph 25 deals with the identification of Mr Mahloele as the best person qualified to set up the PAIDF. That was when he was still at the PIC and before he resigned and then subsequent to that established the facilitation trust. Did you play any role in the selection of Mr Mahloele as the person – as the best person qualified?

PHILLIP JABULANI MOLEKETI: Like it's clearly indicated in my statement that it was executive management and correctly so because they understood the individual skills, through you, Chair, the individual skills of the different people within the PIC. Mr Mahloele on Tuesday indicated the type of experience that he had, you know, and I think it is on the basis of that, that that was identified.

MR DANIEL BURGER: Were you ...[intervenes]

PHILLIP JABULANI MOLEKETI: And also Isibaya – no, no, I was not involved, just to answer the question, you know? I was not involved in that decision but if - that decision had the support of the board of the PIC.

MR DANIEL BURGER: Were you a member of the management executive

committee?

PHILLIP JABULANI MOLEKETI: No, no, I wasn't, I was non-executive director.

MR DANIEL BURGER: And you say you played no role in the identification of Mr Mahloele?

PHILLIP JABULANI MOLEKETI: Of Mr Mahloele, no.

MR DANIEL BURGER: Do you know what process was followed by the management executive committee in coming to identify Mr Mahloele?

PHILLIP JABULANI MOLEKETI: I wouldn't know, I don't know.

MR DANIEL BURGER: I'm sorry?

PHILLIP JABULANI MOLEKETI: I don't know. You know, probably it's either Mr Mahloele or the PIC will be able to reflect on that history which is about 12 years ago.

MR DANIEL BURGER: Paragraph 26?

PHILLIP JABULANI MOLEKETI: "The decision to set up the PAIDF and the manner in which this done was dealt with in more detail Mr Mahloele in his evidence before this Commission on Tuesday last week. In brief, just to recap, with all the necessary legal approvals and in compliance with the requirements of the PFMA a loan of seed capital in the sum of 17 million was made by the PIC to the PAIDF Facilitation Trust as to permit Mr Mahloele to set up the fund and to attract the private sector investment."

And I think we referred – I'd like to refer to Exhibit 3, once again at page 67 to 69, that indicates the approval of the Minister of Finance then, Minister Trevor Manuel, of this facility.

"The seed capital was provided by way of an arm's length loan

which was repayable in full plus interest to the PIC. The amount drawn down on the loan with certain costs and expenses was in total just over R22.5 million. In order to attract private sector investments in the PAIDF the fund had to be and had to be seen to be entirely independent of government control.”

With this I'd like to refer to Exhibit 3, pages 93 to 95. This was the letter which was written on the 29 May 2008 from the Chairperson, from the Chairman of PAIDF to myself as the Chairman of HFM which clearly states the requirement and the need for that independence and I think the matter also was dealt with when Mr Mahloele delivered his evidence.

“This was for a number of reasons on which Mr Mahloele had expanded in his evidence, as I indicated to this Commission, but chiefly that the private sector investment generally carries a greater risk factor, hence a greater return on investment, that investment were to be sought across the continent and not limited to South Africa and most importantly, that PAIDF was intended to be entirely free of any form of political control or manipulation, a factor which always deters those private sector investment who Mr Mahloele would need to attract. As Chairman of the PIC I did not sit on the management exco, was therefore not party to the decision to make the loan of seed capital available. The seed capital loan plus accrued interest was repaid within two years of receipt thereof. In order to manage the funds invested by the private sector investors in PAIDF it was necessary to establish a company in anticipation thereof, and as explained in full by Mr Mahloele on Tuesday last week, a

shelf company had been acquired by Mr Mahloele with the PIC being the nominal sole shareholder for the time being. Mr Mahloele explained in full detail that for various reasons the investors in PAIDF wanted an equity stake in the management company and therefore the right as shareholders to appoint directors to its board. This was so that they could themselves determine the progress of the management company and the manner in which the funds were to be dealt with. This was later implemented and the same prerogative extended to the PIC since it had provided the seed capital loan and as an initiator of the concept it obviously had a material interest in the overall success of PAIDF. The management company was renamed HFM, Harith Fund Managers. In accordance with the above decision the shareholding of Harith Fund Managers were as follows: PIC 46%, Old Mutual Life Assurance Limited 12%, ABSA Trading Investment Solution (Pty) Ltd 12%. The Harith Share Incentive Scheme Trust 30%. This trust permitted the employees of HFM to participate indirectly in an equity share of the company thereby incentivising them over and above their salary entitlements. It is a precondition in the industry that they highly skilled employees who are necessary to administer and to manage the funds under their control be offered such an equity share.”

MS GILL MARCUS: Sorry, just to follow that. I mean, this is a 30% stake for roughly what, 29 people, if I remember correctly?

PHILLIP JABULANI MOLEKETI: Yes, I think the evidence of Mr Mahloele

counted 29 people.

MS GILL MARCUS: Ja, that came to 29.

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: What would an average ...[intervenes]

MR DANIEL BURGER: Madame Chair, it's not the 29, I think the 29 is HHET which is Exhibit 7B.

MS GILL MARCUS: Okay.

MR DANIEL BURGER: And now we're talking about HSIST which is Exhibit 7A.

MS GILL MARCUS: And how many people in HSIST?

MR DANIEL BURGER: I think it's less than 29. 16.

MS GILL MARCUS: But the question – 16. So the question is, of a scheme this – of an investment of this size, a 30% stake for 16 people in the total is rather significant for those individuals. Would that be – what would a normal incentive scheme – what would an average incentive scheme for the staff involved of that sort of number, 15, whether it's 16 or 30, for a scheme of this size, an investment of this size, what would an average or incentive scheme comprise of a total? Would it be 30%, 50% for those involved especially given the nature of this investment where you've got a 46% for the PIC as a whole, a 12% for Old Mutual and its investments and then 16 people have 30%? So almost three times the size return for those 16 people than to the Old Mutual investment of the same investment? Now what's the proportion – I mean this looks very disproportionate to me in terms of the potential earning.

PHILLIP JABULANI MOLEKETI: Ja. Just on that, Commissioner, it might look so but the fact is, the 16 people are responsible for all the

work and mandated by the investors to grow the investments, to ensure that all the processes are followed. These are the workhorses.

MS GILL MARCUS: But that applies in any activity ...[intervenes]

PHILLIP JABULANI MOLEKETI: No, no, no, no.

MS GILL MARCUS: ...that those people are involved. I'm asking about the proportionality to that.

PHILLIP JABULANI MOLEKETI: I'm coming to that, I'm coming to that, you know, I'm coming to that. That the significance of executives in a private equity environment is quite critical. It is critical so that you ensure that you have people who would stay the term of 15 years because this is a 15 year fund and must be incentivise them appropriately so that there is something in it for them because it's a long wait before you get rewarded, it's not like rewarded at the end of a financial year. You have to take and be on the side of the investors to have your own skin in the game to make this a success and I think it's important once we understand it like that. Then the issues of proportionalities, these would differ from fund to fund. There are funds where people have even more than 30% but I don't want to argue the issues of proportionalities because I think it's a matter that is debatable, that is open to interpretation depending on where you sit.

MR DANIEL BURGER: Mr Moleketi, the question was generally in the private equity environment, not specifically in this case but generally in the private equity environment, what is the usual stake of management in the equity of a management company?

PHILLIP JABULANI MOLEKETI: When you say generally, I'm involved in very limited ones, I will rather say at this point I don't want to hazard a

guess.

MS GILL MARCUS: I think that's fair enough but the question for me that I would really want to stress here is that the proportionality of 16 people as individuals in investing in a government employee pension fund, pension fund money and the return to them is greater than the return of the other investors, you've got two investors ...[intervenes]

PHILLIP JABULANI MOLEKETI: No, no, not quite.

MR DANIEL BURGER: Not a return on investment, Chair, it's not a return on investment.

PHILLIP JABULANI MOLEKETI: No.

MR DANIEL BURGER: This is the ...[intervenes]

MS GILL MARCUS: I understand that.

MR DANIEL BURGER: ...the stake of the management company.

MS GILL MARCUS: I understand that but the return to those individuals, I mean, you know, come on, let's – this is Government Employee Pension Fund and the management of that has a 30% stake in the return?

MR DANIEL BURGER: It's not the return it's (inaudible – speaking simultaneously)

PHILLIP JABULANI MOLEKETI: No, Chair.

MR DANIEL BURGER: Let the witness answer.

PHILLIP JABULANI MOLEKETI: Chairperson, Chairperson, can I say probably, you know, we'll need to go back, think about that and come up with an answer but as I sit here, I don't think it is excessive because as explained the investors also to a large extent they have their returns and I think it's important for us to understand – for us to argue what is this 30% before somebody starts thinking that it's 30% of the entire returns of

the fund and I think can I – can I request that we go back and address that specific question?

MS GILL MARCUS: I think that would be very helpful.

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: So that there's clarity on what the 30% is in relation to the investments of 12%, 12% and 46%.

PHILLIP JABULANI MOLEKETI: Sure, ja.

MR EMMANUEL LEDIGA: Can I add something here? I could be wrong but when you look at it currently is that the bulk of the private equity funds close to a hundred percent is owned by the staff, you know, so the management company is different to the fund itself, you know, so even this 30%, this could be the pass(?) but current is that 100% actually is owned by the employees, so just as a general thing is that management companies of private equity funds are owned by staff, the investors don't participate in the shareholding of the management companies broadly. As far as I know, I could be wrong but that's how it is.

CHAIRPERSON: Tell me, at the time that the decision relating to these issues in paragraph 32 were made were you already part of HFM?

PHILLIP JABULANI MOLEKETI: Yes, ja, sure. As I indicated I was Chairman up until 2012. I'm on 32.4.

MR DANIEL BURGER: Yes.

PHILLIP JABULANI MOLEKETI: We're talking about the 30%.

"This trust permitted employees of HFM to participate indirectly in an equity share of the company thereby incentivising them over and above their salary entitlements. It is a precondition in the industry that the highly skilled employees who are necessary

to administer and manage the fund under their control be offered such an equity share. These employees, however received no equity benefit unless and until the clients for whom they are managing and investing funds have been fully paid out. I am not a beneficiary of the Harith Share Incentive Scheme Trust.”

I am not a beneficiary.

MR DANIEL BURGER: Just to interrupt you there.

CHAIRPERSON: Ja, alright, ja.

PHILLIP JABULANI MOLEKETI: That – sorry, sorry, Commissioner, lady Commissioner, that is also apparent ...[intervenes]

MR EMMANUEL LEDIGA: Continue and I'll ask.

MR DANIEL BURGER: I just want to make the point that what Mr Moleketi has just said about him not being a beneficiary of the HSIST, that is also evident from Exhibit 7A. I apologise for the interruption.

PHILLIP JABULANI MOLEKETI: Sure.

MR EMMANUEL LEDIGA: Mr Moleketi...

PHILLIP JABULANI MOLEKETI: Yes.

MR EMMANUEL LEDIGA: Just to check something, General Bantu Holomisa said you are a beneficiary to various companies. Where are you a beneficiary of? I mean, where in this whole group of Harith, Lebashe, is there some place where you're a beneficiary?

PHILLIP JABULANI MOLEKETI: Ja. No, no, I've stated that I'm the shareholder in Lebashe though my family trust.

MR EMMANUEL LEDIGA: And director's fees and scheme shares, options across the board?

PHILLIP JABULANI MOLEKETI: I don't have, the only thing that I

received from Harith General Partners is board fees. I have no options, that's the only thing that I receive. As far as Lebashe is concerned, like any shareholder, I receive any benefit that accrues to shareholders.

MR EMMANUEL LEDIGA: And if I can ask, what's your shareholding Lebashe, if I can ask? It's not something ...[intervenes]

MR DANIEL BURGER: I think with respect that's beyond the scope of this.

MR EMMANUEL LEDIGA: You don't want to talk about it.

PHILLIP JABULANI MOLEKETI: Yes.

MR EMMANUEL LEDIGA: Okay, no, it's fine, it's fine.

MR DANIEL BURGER: It is private.

MR EMMANUEL LEDIGA: Ja, it's fine, I want to know. Ja, it's fine, it's fine.

MR DANIEL BURGER: But can I just correct ...[intervenes]

CHAIRPERSON: But if Mr Moleketi wants to answer that he can answer it.

PHILLIP JABULANI MOLEKETI: No, no, I think I'm appropriately advised and I agree with counsel.

MR DANIEL BURGER: Can I just correct one thing. You said you only – you received board fees from Harith GP.

PHILLIP JABULANI MOLEKETI: Yes.

MR DANIEL BURGER: But in your statement you say you also received board fees from Harith FM after you resigned as Deputy Minister of Finance and as Chair ...[intervenes]

PHILLIP JABULANI MOLEKETI: Absolutely correct, yes.

MR DANIEL BURGER: ...of the PIC.

PHILLIP JABULANI MOLEKETI: Sure. Because whilst I was public office bearer it is not allowed, I think Commissioner Marcus would also back this up, that you should receive any form of income from any other source except probably here, the saving accounts and you get interest.

MS GILL MARCUS: Just one point of clarity then just in terms of 32.4 again, these employees receive no equity benefit unless and until the clients for whom they are managing and investing funds have been fully paid out, that at this point in time there has been no benefit ...[intervenes]

PHILLIP JABULANI MOLEKETI: No, no.

MS GILL MARCUS: ...accrued to any member of HSIST.

PHILLIP JABULANI MOLEKETI: No, there hasn't been any benefit, ja.

MR DANIEL BURGER: Commissioner Marcus, if I could just refer you to Mr Mahloele's statement, you'll recall from his evidence last week that this whole issue was dealt with in paragraph 20 on page 7 of his statement.

MS GILL MARCUS: I recall that very well but I'm talking to Mr Moleketi right now.

MR DANIEL BURGER: Yes but he wasn't involved in this, this is...

MS GILL MARCUS: [inaudible – microphone off]

MR DANIEL BURGER: Yes, I accept that.

MR EMMANUEL LEDIGA: Just another question. Are you in HGP, are you part of the carry trust, the carry portions by any chance?

PHILLIP JABULANI MOLEKETI: No, I am not. I am not part of a carry of any form in HGP.

MR EMMANUEL LEDIGA: Okay, alright.

PHILLIP JABULANI MOLEKETI: I know that in other situations, I hope Mr Mahloele is listening, chairmen and directors are also roped into the carry in other private equity but in this one, so that I don't cause any confusion, I am not part of the carry.

CHAIRPERSON: You may continue.

PHILLIP JABULANI MOLEKETI: Ja. I'm on paragraph 31, hey?

MR DANIEL BURGER: No, you're at 33.

PHILLIP JABULANI MOLEKETI: 33.

MR DANIEL BURGER: Yes.

PHILLIP JABULANI MOLEKETI: "While the PIC had 46% stake in the management company HFM the decision of the GEPF to invest in PAIDF, both PAIDF 1 and PAIDF2, as shall be seen was one that was taken entirely and independently of the PIC."

I think what is important it's a point that Mr Mahloele dealt with in his statement and is something that we explored also earlier on in terms of the directly investing in PAIDF1 and PAIDF2 by the GEPF.

MS GILL MARCUS: Mr Moleketi, I don't want to sound semantic but if you say it was taken entirely independently of the PIC, when we looked at it earlier the PIC did not have the mandate for PAIDF1 and it was speculated that there was discussion between the PIC and the GEPF.

PHILLIP JABULANI MOLEKETI: Ja, sure.

MS GILL MARCUS: So it cannot be taken entirely independently.

PHILLIP JABULANI MOLEKETI: Ja. Okay, let me explain that. In the GEPF they've independent governance structures. The idea might have originated from within the PIC but I think the trustees and the governing structures set applied their minds and independent of whoever proposed

the idea arrived at a decision. This is what I meant by it.

MS GILL MARCUS: I think it could be slightly better phrased in that context.

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: I accept what you're saying but just saying entirely independently assumes that there had been no discussion with that and I think that that would not be absolutely accurate but that they sat and took the decision as the GEPF, yes.

MR DANIEL BURGER: And that it wasn't a decision of the PIC.

PHILLIP JABULANI MOLEKETI: Ja.

MR DANIEL BURGER: In other – I understand the point that you're making is that in a sense the PIC took a back seat and Commissioner Marcus you were suggesting that there must have been some discussion but it wasn't a discussion to which Mr Moleketi was party.

MS GILL MARCUS: I accept that but all I'm raising here is that given that context to say entirely independently is not quite the same as saying the board sat and evaluated and took a decision.

PHILLIP JABULANI MOLEKETI: Sure. I think ...[intervenes]

MS GILL MARCUS: It's just a little bit of ambiguity in that statement.

PHILLIP JABULANI MOLEKETI: Ja, I think we can put it – I accept Commissioner, we can put it more eloquently and clearly that it was an independent decision of a board of trustees of the GEPF, you know, having consulted, having been made aware of the idea from the PIC, you know, that they took the decision independently, sure.

“The PIC's exposure was therefore limited to its seed capital loan. Furthermore, although it had no risk or exposure was

regards to the investments of the PAIDF, the PIC acquired a significant benefit by virtue of its 46% stake in HFM. The benefits accruing to the shareholders of HFM including the PIC were dealt with by Mr Mahloele in his evidence. The total benefit to the PIC in this regard was as at May 2018 in the sum of almost 96 million. This also was dealt with in the evidence of Mr Mahloele. It is to be stressed that this benefit accrued to it without its having any risk regarding its own funds because there were no PIC funds invested. It was solely as a result of its shareholding in HFM. Mr Holomisa...”

Sure.

MR DANIEL BURGER: Mr Moleketi I’ve been advised that it’s time for the customary adjournment at eleven. I don’t know if the Commission wishes to take a break now or should Mr Moleketi continue?

CHAIRPERSON: We would be prepared to go on until half past eleven but if any of you would like a break now that’s fine, we’ll take it.

MR DANIEL BURGER: No, I’m not requesting one, I was just given a signal.

CHAIRPERSON: Let’s go on until half past eleven.

MR DANIEL BURGER: Mr Moleketi are you able to then continue?

PHILLIP JABULANI MOLEKETI: Yes, yes, I am, sure.

“Mr Holomisa...”

I’m on paragraph 34.

“Mr Holomisa’s shallow conjecture therefore that the HFM is engaged in investing the funds of the PIC and therefore exposing the livelihood of innocent civil servants pensioners to

unnecessary and dangerous risk is therefore demonstrably false. In fact the PIC greatly benefits from its shareholding of HFM. By virtue of my Chairpersonship of the PIC I together with other nonexecutive directors of the PIC who are appointed as the PIC's nominees to the board and as nonexecutives of HFM. I, in that capacity, I was then elected as the Chairman of the Board of HFM. At no stage whilst I was in public office did I received any remuneration for my role on the board of HFM."

I think that's a matter that we dealt with earlier.

"Given his expertise in establishment of PAIDF and its overall qualification Mr Mahloele become a director and was employed as a CEO of HFM."

MS GILL MARCUS: Sorry just for clarify, who employed – who created or determined the employment of Mr Mahloele in that 37?

PHILLIP JABULANI MOLEKETI: Who...?

MS GILL MARCUS: It says:

"Mr Mahloele became a director was employed as CEO of HFM."

Who determined that? How as that decided? By whom?

PHILLIP JABULANI MOLEKETI: I think probably my memory fails me but I recall that there is a contract, an employment contract of Mr Mahloele in this – it's either – it's in the pack or in a different pack.

MR DANIEL BURGER: It's page 74 that you're looking for.

MS GILL MARCUS: So it was Harith Fund Managers?

PHILLIP JABULANI MOLEKETI: Ja, no, no, which ...[intervenes]

MS GILL MARCUS: That employed him?

PHILLIP JABULANI MOLEKETI: Yes and you can see it's signed by the

Chairman of Harith Fund Managers, the contract.

MR DANIEL BURGER: That's at page 90.

PHILLIP JABULANI MOLEKETI: Yes, in fact terms of employment starts from page 73 and the contract is initialled and signed ...[intervenes]

MS GILL MARCUS: So it was signed by yourself?

PHILLIP JABULANI MOLEKETI: Yes, as the chair.

MS GILL MARCUS: As the chair of Harith.

PHILLIP JABULANI MOLEKETI: Yes.

MS GILL MARCUS: As an employment contract with Mr Mahloele.

PHILLIP JABULANI MOLEKETI: Yes.

MS GILL MARCUS: Taken again – just referring back to the original discussion or question that I asked there was no public or other process about identifying somebody, this was a person who had been involved in the process ...[intervenes]

PHILLIP JABULANI MOLEKETI: Absolutely.

MS GILL MARCUS: And became a person that you as the Chair of Harith felt was appropriate to be the CEO.

PHILLIP JABULANI MOLEKETI: Absolutely.

MS GILL MARCUS: Ja.

PHILLIP JABULANI MOLEKETI: Sure.

MR EMMANUEL LEDIGA: Just going back to paragraph 36, the sort of preceding paragraph. When you left government in 2008 did you leave the Chairpersonship of HFM and then – ja, that's the...

PHILLIP JABULANI MOLEKETI: When I left government September 25, 2008, I left the Chairperson of the PIC and remained as the Chairperson of HFM because those are two separate entities.

MR EMMANUEL LEDIGA: And how was that achieved, I mean, did the PIC, you know, ask you to do that or – because you were a rep of the PIC on that board.

PHILLIP JABULANI MOLEKETI: Obviously yes, you know, I didn't conduct a sit-in and said I'm not going anywhere, the PIC said to continue for continuity and that position was confirmed by other shareholders as they came on board later on because as we know all companies – all companies have AGMs and in all AGMs directors are voted in or voted out, you know. In later years, I think after 2009, when the other shareholders came on board, that position was confirmed, ja, but at that point it was the PIC that said I must stay.

MR EMMANUEL LEDIGA: Then in 2012 when you became Chairperson of HGP, I think, who got you there, how did you get the position?

PHILLIP JABULANI MOLEKETI: 2012 HGP, Chairperson?

CHAIRPERSON: Yes.

PHILLIP JABULANI MOLEKETI: When it comes to that, quite clearly the company went about to look for appropriate directors and already as Mr Mahloele has indicated that unlike what would one say, the urban legend of liquidation, that there was a – it was a shell, it had interest, HFM, in the going on's of HFM but also contracting the employees and the expertise to HGP, you know, and in the that process was a similar transition of directors, you know, who now had nothing to do sitting on HFM moved into HGP. Yes.

MR EMMANUEL LEDIGA: So you were transferred together with the assets and all that.

PHILLIP JABULANI MOLEKETI: I suppose was an asset, in my previous

life I was called an asset.

MR EMMANUEL LEDIGA: Okay.

MR DANIEL BURGER: Mr Moleketi, can I ask you, the position of Harith FM and Harith GP, are either of those companies subject to the provisions of the PFMA?

PHILLIP JABULANI MOLEKETI: No, they are not, then they were clearly, clearly set up to ensure that – that was a requirement, that was a requirement of the investors. It was not because there's something wrong with the PFMA, it works in the public sector but the PFMA itself has a number of obligations, it can make processes take much longer and in this game, if I may use the term, you need decisions, you need turnaround time to be much shorter, you know? It's not a criticism of the PFMA but in the public – in the private sector, I don't think it's a – it's an instrument, it's a law that makes for efficient execution. So both of them were not subject to PFMA.

MR DANIEL BURGER: And this is part of the idea that the management company and the funds should not be subject to government control.

PHILLIP JABULANI MOLEKETI: Absolutely, yes.

MR EMMANUEL LEDIGA: Just another question, is that one would presume that after you left government and you got to HFM you did receive board fees there, is that correct?

PHILLIP JABULANI MOLEKETI: Yes I – I mentioned it, yes. As soon as I resigned, well, I had no income, I received board fees from HFM, yes. Thanks for raising that, thank you.

MS GILL MARCUS: And just for clarity, if we go back to your paragraph 35, it's a question that you state there:

“By virtue of my Chairpersonship...”

Chairmanship, Chairperson, Mr Moleketi.

“...Chairmanship of the PIC, I became – I was appointed as the PIC’s nominees to the board and in that capacity Chairman of HFM.”

PHILLIP JABULANI MOLEKETI: Yes.

MS GILL MARCUS: In that capacity being the capacity of the Chair of the PIC?

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: Right?

PHILLIP JABULANI MOLEKETI: Ja.

MS GILL MARCUS: When HFM was then moved to the HGP by virtue of being the Chair, when you left government, you remained the Chair at the request of the PIC itself as Chair of HFM and then moved with the entity and the management into chairing the HGP.”

PHILLIP JABULANI MOLEKETI: HGP.

MS GILL MARCUS: HGP.

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: Is that correct?

PHILLIP JABULANI MOLEKETI: That’s correct.

MS GILL MARCUS: Right, but the origin of it was by virtue of your position as Deputy Minister of Finance.

PHILLIP JABULANI MOLEKETI: Quite correct.

MS GILL MARCUS: Which then morphed into...

PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: ...the executive positions when you were no longer...

PHILLIP JABULANI MOLEKETI: Ja.

MS GILL MARCUS: Thanks.

MR DANIEL BURGER: You are at the bottom of page.

MR PHILLIP JABULANI MOLEKETI: Okay.

“Giving his expertise...[intervenes]

MR DANIEL BURGER: No, the next sentence.

MR PHILLIP JABULANI MOLEKETI: The next sentence? Mr Mahloele? Which one?

MR DANIEL BURGER: Several...[intervenes]

MR PHILLIP JABULANI MOLEKETI:

“Several highly skilled employees necessary for the overall expertise of the fund were head hunted, were sourced from the PIC and the financial service industry at large...”

And those are the people that Mr Mahloele was referring to in his evidence.

“It was these employees who were the beneficiaries of the Harith Share Incentive Scheme Trust. I was not one of them. The purpose of objectives of HFM was solely the management of PAIDF1 and as such, it was precluded from establishing further funds.

By August 2007, the sum of 630 million US dollars had been raised and the PAIDF was then closed. That is PAIDF1. And the investors were, just for the record:

- GEPP. That is the Government Employees Pension

Fund, 250 million US dollars

- ABSA Limited, 125 million US dollars;
- The Development Bank of Southern Africa; 100 million US dollars;
- The African Development Bank, Fad, 15 million US dollars;
- Old Mutual Life Assurance, 50 million US dollars;
- Stanlib, 30 million US dollars;
- SSNIT, which is a Ghanaian pension fund, 10 million US dollars;
- Momentum Metropolitan Holdings, 10 million US dollars;
- Eskom Pension and Provident Fund, 5 million US dollars.

That made up the investors in Fund 1...”

MS GILL MARCUS: And to just repeat what we had discussed with Mr Mahoele when he was giving his evidence of that 630 million, only 60 million came from non-South African?

MR PHILLIP JABULANI MOLEKETI: Well, my calculation... Let us see. I think you are correct. I think when you add the sums, ja.

MS GILL MARCUS: Ja. So, it was in essence – given the idea that this would be an African fund drawing on pension funds as envisaged originally by the then President Mbeki – in essence, out of the 630 million US dollars, only 60 million was able to be drawn in PAIDF1.

MR PHILLIP JABULANI MOLEKETI: In terms of numbers, you are correct. But may I add in my answer?

MS GILL MARCUS: Sure.

MR PHILLIP JABULANI MOLEKETI: Just continue.

MS GILL MARCUS: Sure.

MR PHILLIP JABULANI MOLEKETI: One of the most important things is that all the investors in this fund shared the vision of investing on the African continent. So, it was a mandate. So, they invested, understanding, not because they were matching. There was no matching. It was that we have a belief and we shared the common believe of investing, you know. The ABSA...[intervenes]

MS GILL MARCUS: Ja, I am not questioning their motivation and their understanding of that this was an African Wide Fund.

MR PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: I am just raising the question that it was intended to be drawn. That the other countries in Africa or other countries in Africa were intended to be part of this, but at that PAIDF1 level, you only were able to succeed in drawing in two non-South African countries. Or one being the African Development Bank in one country. It is just for information that, that is the...[intervenes]

MR PHILLIP JABULANI MOLEKETI: No, no. It is a correct observation.

MR EMANUEL LEDIGA: Can I add a broad question which you may choose to answer, but it is quite broad. I mean, it is quite interesting that the continent says that, you know, we need to build roads and airports and all that and when the fund is raised, they actually do not put in the money.

So, I mean, why is that so? I mean, it is quite intriguing for

me to talk about it and you know, when the vehicles are there, then they do not put in the money, the other countries.

MR PHILLIP JABULANI MOLEKETI: Ja, let me also answer it broadly. And in answering broadly, so that on this one I stand on this side of the continent because we are part of Africa. We are Africans.

Dr Kaberuka who was the president of the African Development Bank, launched a fund which was called Africa Fifty Fund. This fund, it has the same objectives. It was launched on the 23rd May in Kigali.

MR DANIEL BURGER: What year was it?

MR PHILLIP JABULANI MOLEKETI: 23rd May. I think it was in 2004. Just hold on. I will get exactly... 2013. The fund was endorsed in 2013 by the African finance ministers during the bank's annual meeting. That is the banks' annual meeting, which is the African Development Bank in Marrakesh.

I am trying to indicate that the membership of that fund, as we speak, just a commitment of the continent, is made up of 25 member countries. They include countries like Benin, Burkina Faso, The Cameroon, The Democratic Republic of the Congo, Malawi, Mali, Mauritania, Morocco, Nigél. The list is long.

So, what I am trying to say is that the continent has this commitment and they had their shareholder meeting in July 2016. Just to cut a long story short. Just to show that it was launched in July...

Had their first meeting in July 2016 and the first investment of that company – of that fund was a solar. A 400 MW solar plant in Benban, Egypt and this was around October. The final close was in

2017, but the first investment was around, I think, around the same year.

What I am trying to indicate, sir, Commissioner is that, it is so important to understand that what Harith did also led to a number of initiatives in the continent because they have seen the success.

That the concept of an infrastructure fund in Africa was no longer something that could be dismissed as too risky. It cannot be done. We were the pioneers and this fund was setup by Dr Donald Kaberuka, following on the steps of Harith which is a clear indication that gradually, more and more African countries are investing their resources and savings in this infrastructure development endeavour.

MR EMANNUEL LEDIGA: Okay, thank you.

MR DANIEL BURGER: Paragraph 40.

MR PHILLIP JABULANI MOLEKETI:

“The investors were not required immediately to pay over the full amount of their commitments. As was practiced in the industry, they undertook to make funds available as and when required by the fund manager, who drew down the funds, in line with the demands of the relevant investments.

Funds are not held idle in bank accounts to be drawn on as and when the fund manager pleases. The investors actively participate in the choice and nature of all investments through an investment committee which allows them the ability to see through the fund structures.

This meant that the investors were able at any time to scrutinise all the gains and losses made or incurred during the course of the investment cycles and all the amount utilised for the purposes thereof.

MS GILL MARCUS: Sorry. Just in relation to that. Perhaps you could explain page 93. What was the problem with regards to finalising the arrangements with the investors about the shares from PIC to the different investors? That is the letter from Martin Kuscus, pages 93 to 95.

MR PHILLIP JABULANI MOLEKETI: To myself, yes. Mr Mahloele tried to walk on this path in his evidence. One of the things is that somehow there was a bit of – what I will term as a difficulty.

That is slightly more than just an administrative difficulty for the PIC to execute on this mandate of ensuring that the mandate and the structure of the fund is as it was envisaged, as captured in the letter of Mr Kuscus. That is where the issues were. It took a lot of toing and froing. A lot of negotiations, but ultimately the matter was resolved, Commissioner.

MR DANIEL BURGER: Mr Moleketi, can I just get some clarity on this. The letter at page – that starts at 93 to 95 of Exhibit 3, is dealing with the issue that arose relating to the shareholding of investors in the management committee.

MR PHILLIP JABULANI MOLEKETI: Sure.

MR DANIEL BURGER: I beg your pardon. In the management company which is Harith FM. At paragraph 41 of your statement, you are dealing with a body called the Investment Committee. Can you

clarify how, if at all, the Investment Committee differs from the management company?

MR PHILLIP JABULANI MOLEKETI: Okay, I can clarify that. The Investment Committee is made up of investors, primarily and Mr Martin Kuscus, by virtue of being, at that point, being the chair of GEPF Trustees, was also the chair of that Investment Committee.

It involved other stakeholders. I do not know. I forgot their names, but they represented ABSA, Old Mutual... They all sat around the table. Those are the people who took decisions around investment. That they took investment decisions.

MR DANIEL BURGER: So, the Investment Committee is a committee of the PAIDF?

MR PHILLIP JABULANI MOLEKETI: Yes.

MR DANIEL BURGER: It is not a committee of HFM.

MR PHILLIP JABULANI MOLEKETI: No, no. It was a committee of PAIDF. Ja, sure. Now, I was referring to this letter. I think, you are referring me to the letter. I might have lost track of that.

MS GILL MARCUS: Ja, I was referring to the letter because what you indicating in 4.1 and has just been elaborated is that, the Investment Committee represented those shareholders who were also investors. And given the dispute over the shareholding, did it impact at all on the role of the Investment Committee?

MR PHILLIP JABULANI MOLEKETI: No, no. It did not.

MS GILL MARCUS: Ja. So, they continued with that, notwithstanding that there was a dispute for some period of time about the actual transfer of shares?

MR PHILLIP JABULANI MOLEKETI: Ja. My recollection. It did not. They continued, ja. But they needed this matter to be finalised and I think it was also, as Mr Mahloele indicated, a threat of withdrawing the mandate from HFM.

MR EMANUEL LEDIGA: Just a further question. The IC, the committee, you know, the HFM, the Stanlib's and the Mutual. The committee in HGP, who are the people there, in the IC, the investment team?

MR PHILLIP JABULANI MOLEKETI: Committee of...?

MR EMANUEL LEDIGA: In the Investment Committee in HGP. Oh, sorry. PAIDF2.

MR PHILLIP JABULANI MOLEKETI: 2?

MR EMANUEL LEDIGA: Yes. Who are the people in that committee there.

MR PHILLIP JABULANI MOLEKETI: I do not have their names and I know that I am a member of that Investment Committee. It is chaired – our chairperson is Dolika, who is a lady – an investment...[intervenes]

MR EMANUEL LEDIGA: *Mambula?*

MR PHILLIP JABULANI MOLEKETI: Ja.

MR EMANUEL LEDIGA: Oh. I know her, ja.

MR PHILLIP JABULANI MOLEKETI: You know her. Ja. And who else sits in that Investment Committee? Their names will come. Sure.

MR EMANUEL LEDIGA: So, it is quite different now to the Stanlib and the Old Mutual and the ABSA's?

MR PHILLIP JABULANI MOLEKETI: It is different. General Partners... Absolutely. Ja, sure.

MR EMANUEL LEDIGA: Ja, but it sort of, it has got – the people are not only part of the PIC and sort of HGP people.

MR PHILLIP JABULANI MOLEKETI: Ja.

MR EMANUEL LEDIGA: It does not have, sort of, it has got other people who are non-PIC, non-HGP. Is that correct?

MR PHILLIP JABULANI MOLEKETI: No...[intervenes]

MR EMANUEL LEDIGA: The Investment Committee of PAIDF2.

MR PHILLIP JABULANI MOLEKETI: Yes, yes.

MR EMANUEL LEDIGA: PAIDF2.

MR PHILLIP JABULANI MOLEKETI: People like Vincent and all, were non. Exactly. It is other people who will give their names.

MR EMANUEL LEDIGA: Ja. Is it possible to get a list of the people in the IC of PAIDF2, please?

MR PHILLIP JABULANI MOLEKETI: Sure.

MR DANIEL BURGER: Yes, Commissioner. I am sure that is...

MR EMANUEL LEDIGA: Okay, all right.

MR DANIEL BURGER: And in fact, we can do the same for PAIDF1.

MR EMANUEL LEDIGA: One. Ja, ja. And by the way, last week we asked for documents on the fees and the financial statements. I wonder, when are we going to get those? I thought you guys would have brought them today, you know.

MR DANIEL BURGER: I will take instructions during the tea break and I will be able to let you know where the documents are.

MR EMANUEL LEDIGA: Okay, all right.

MR DANIEL BURGER: Apparently we do have them.

MR EMANUEL LEDIGA: You have the docs?

MR DANIEL BURGER: Yes.

MR EMANNUEL LEDIGA: Okay, thanks.

MR PHILLIP JABULANI MOLEKETI: Now, where are we now? I must put a marker. Sorry about that.

“As of the March 2018, the GEPF’s initial investment of R2.3 billion, which is some 248 million US dollars out of the 250 million committed by the GEPF and forming part of the 630 million total investment in the fund, was independently valued and audited at 279.3 million US dollars, being some R3.3 billion.

The gross IRR’s as calculated by the fund is and to such date is 6.2% in US dollars and in terms of Rands, it is 11.7% in Rand terms...”

I think this matter was covered, also, in Mr Mahloele’s evidence.

MS GILL MARCUS: Ja, and just for emphasis. I think if it is a dollar investment, as we said...[intervenes]

MR PHILLIP JABULANI MOLEKETI: We must keep it at dollar.

MS GILL MARCUS: It be a dollar return. Because otherwise your exchange rate translation is then not...[intervenes]

MR PHILLIP JABULANI MOLEKETI: Ja. I now there is a... The exchange rate gains, you know.

MS GILL MARCUS: They confuse the issue. They will distort the issue. And just to be clear. As at 31st March 2018, from inception, was that 2007 of the fund?

MR PHILLIP JABULANI MOLEKETI: Ja, ja.

MS GILL MARCUS: So, 2007 to 2018.

MR PHILLIP JABULANI MOLEKETI: Ja, it was...

MS GILL MARCUS: Okay. So, that would be 11 years and the return over that 11 years is 31 million US dollars?

MR PHILLIP JABULANI MOLEKETI: According to this, yes.

MS GILL MARCUS: Yes, thanks.

MR PHILLIP JABULANI MOLEKETI: Sure. Capital was not loss, but yes, that is the return by then.

“As I already mentioned, in September 2008, I resigned as the Deputy Minister of Finance and accordingly, as the chairman of the PIC...”

I am making a correction, because I think the chairman of the commission is correct there.

“However, at the request of the shareholder (not shareholders) of HFM, because at that point, was the PIC, who obviously, have the necessary confidence in me, who were probably motivated by considerations of continuance and stability, I remained on as the chairman of HFM.

From then onwards, I received a modest emolument...”

It is modest, indeed. I am not like minimising it, you know. Ja, compared to what I receive from other boards, it is quite modest.”

MR DANIEL BURGER: Chair, I think this would be an appropriate point. Because we are now moving onto HGP. A point to take the adjournment.

CHAIRPERSON: Yes, we will adjourn until quarter to twelve.

MEETING ADJOURNS:

MEETING RESUMES:

CHAIRPERSON: Mr Moleketi, you are still under oath.

PHILLIP JABULANI MOLEKETI: (s.u.o.)

MR PHILLIP JABULANI MOLEKETI: Yes, I am Chair.

MR DANIEL BURGER: Chairperson, can I just put on record regarding the request from Mr Lediga that... The documents requested of Aluminous. They include all the annual statements from 2007, moving forward, of HFM, HGP. They also include a whole bunch of board resolutions, as well as resolutions linked to the transfer.

We are busy putting them all together. We are not going to make hard copies. We are going to put them onto a disc and we have made arrangements with Mr Lubbe to have them – to have the disk transferred to him or hand it over to him, as soon as it is available which will be in the next day or so.

MR EMANUEL LEDIGA: That is fine. Thank you. No problem.

MR PHILLIP JABULANI MOLEKETI: Can I proceed, Chairman?

CHAIRPERSON: [No audible reply]

MR PHILLIP JABULANI MOLEKETI: Thank you. We are on paragraph 45.

MR DANIEL BURGER: 45, yes.

MR PHILLIP JABULANI MOLEKETI: Yes.

Paragraph 45:

“Given the single fund requirement of HFM, it was anticipated that it will be necessary later to make use

of the vehicle under which further funds, in addition to PAIDF1, could be established and managed.

For this reason, HGP, that is Harith General Partners, was established. As its name suggests, was mandated to manage several funds under a single umbrella...”

MS GILL MARCUS: Sorry. Can I just ask, because I am not sure I understand the reasoning. If you are mandated with PAIDF1 to manage a single fund, why could you not just change the terms of reference of that fund?

MR PHILLIP JABULANI MOLEKETI: That question, I think, was addressed to Mr Mahloele because the fund itself, the mandate was made and given by the shareholders and if I understood, when Mr Mahloele addressed the question, that was explored and the shareholders – some shareholders said: No, we cannot change that.

Because some of them had already established entities and vehicles that were doing exactly the same thing in the very same terrain, which is Africa, you know. So, there was an issue of direct competition. To be quite specific. Old Mutual was such.

“In 2012, HFM determined to sub-contract its management agreement with the PAIDF to HGP. This meant that all active staff and skilled employees of HFM were transferred to HGP...”

I think there is a specimen, which I think will be important. On pages – on Exhibit 3, pages 104 to 106, that gives an indication of this sub-contracting, you know. Pages 104 to 106. There is a specimen of

that sub-contract.

“The transition required the approval of HFM’s shareholders together with the ten investors in the PAIDF, which was duly granted. I became the non-executive director and the chairman of HGP. That is Harith General Partners.

From the inception of HGP, I have received a modest emolument for my role on its board. HGP became active in October 2013 and its shareholders are: Harith Holdings (Pty) Ltd, 70% and the PIC, 30%...”

I think one of the things that were referred to by Mr Mahloele, is the whole requirement by the PIC to seek the approval of the minister to acquire any investment or interest in private sector companies and I think that document – that approval is on Exhibit 3, pages 99 to 103.

And the letter of approval from the minister, I think it on page 103, and the price which was an issue that was quite raised, in terms of what the price is, is on page 100, indicating that the PIC paid a minimum amount of R30,00 and I think all those are in Exhibit 3 on pages 99 to 103.

MR DANIEL BURGER: That is page 100, paragraph 2.7.

MR PHILLIP JABULANI MOLEKETI: Yes. Ja.

“Harith Holding (Pty) Ltd in turn is held as to 100% by employees, equity trust of the same type as in HSIST, referred to above, in which its skilled employees participate in a manner described above...”

MR DANIEL BURGER: And just for completeness. That trust is called HHET.

MR PHILLIP JABULANI MOLEKETI: HHET, yes.

MR DANIEL BURGER: Which is Exhibit 7B.

MR PHILLIP JABULANI MOLEKETI: 7B. Sure.

“I have never had any interest in the shareholding of HGP and I am not a beneficiary of this trust.

A second fund, known as PAIDF2, in the amount of 435 million US dollars was then raised by Harith General Partners with the following investors:

- The Government Employees Pension Funds, 350 million US dollars;
- DTD. A consortium of high net worth individuals, 35 million US dollars;
- AfDP. The African Development Bank, 25 million US dollars;
- DBSA. The Development Bank of Southern Africa, 15 million US dollars;
- Botswana Public Offices Pension Fund, 10 million US dollars.

PAIDF2 was finally closed to further funding contributions in June 2006 and the funds invested in similar projects as in the Inaugural Fund. That is PAIDF1...”

MR EMANUEL LEDIGA: A question here. I understand that you are the chairperson of DBSA.

MR PHILLIP JABULANI MOLEKETI: Yes.

MR EMANNUEL LEDIGA: And it invested in this fund, in PAIDF2.

MR PHILLIP JABULANI MOLEKETI: Yes.

MR EMANNUEL LEDIGA: Were there any perception on conflicts or anything around this issue?

MR PHILLIP JABULANI MOLEKETI: Thank you very much for raising that question, Commissioner. The DBSA, when it took these decisions, because I was not just a chairman of the DBSA, I was also a member of the Investment and Credit Committee, which is where such decisions are processed.

In all areas where Harith is discussed, where this investment was discussed, I recused myself. Not only recused myself and stayed in the meeting. I left the room, but for that, I think your team, can get the requisite documents from the DBSA.

I no longer have access to these documents. As I have indicated, I retired on the 31st December 2018, but I am sure, the team of the Commission can have access to that to basically get to that because it is minute in every aspect where these matters were discussed.

MR EMANNUEL LEDIGA: So, you are quite happy that the – that conflicts were well-managed?

MR PHILLIP JABULANI MOLEKETI: It was managed quite well. We have a very, very good – not just a team of people that constituted that board, but also, had a very good company secretary.

You know, when you have a good company secretary, that is the person who alerts you, you know, to say that: On this agenda

today we will be discussing these matters. These are the people who have a potential conflict, you know and that was managed quite effectively. There was no instance where there was a conflict.

MR EMANUEL LEDIGA: Just as a broader question. Does the DBSA invest money on the continent, because it looks like the model of, you know, of PAIDF2 is the same as what the DBSA does generally here, you know?

MR PHILLIP JABULANI MOLEKETI: Not just...[intervenes]

MR EMANUEL LEDIGA: Just, if you could, just explain those different...

MR PHILLIP JABULANI MOLEKETI: Not quite. In the continent, basically, the DBSA is saying, funds to a large extent, it deals with debts. Debt fund, you know. Not, not...[intervenes]

MR EMANUEL LEDIGA: Oh, yes. Yes.

MR PHILLIP JABULANI MOLEKETI: Yes, you know. That is why I am saying, it is not exactly the same. There is not anywhere where, to a large extent, there could be a bit of an overlap.

In fact, there are instances, where in some of the projects on the continent, the DBSA say, extends a debt facility, where you will find that PAIDF is an investor, you know.

So, those are some of the advantages. I think, I have always seen it as an advantage, having a PAIDF type of an investor and a DBSA in the same continent because they are South African.

Primarily South African based companies that increases, not only their opportunities, but also the issues of business intelligence in areas where they work.

MR EMANUEL LEDIGA: So, there are places when DBSA has put in debt in a transaction and PAIDF has put in the equity portion. Are there some projects and contracts?

MR PHILLIP JABULANI MOLEKETI: There could be. I know that there was a time when Lake Tswana also featured in the DBSA's radar, but we will have to check that. But there was no, what it was, Chinese Wall, that prevented the DBSA from doing that.

MR EMANUEL LEDIGA: Chairperson.. I am sure you declared the interest whenever those kind of things came up and all of that.

MR PHILLIP JABULANI MOLEKETI: Exactly. Sure.

MR EMANUEL LEDIGA: Okay. All right.

MR DANIEL BURGER: I think you read 53.

MR PHILLIP JABULANI MOLEKETI: 53.

“At March 2018, the GEPF's initial investment commitment in the sum of...”

I think I have dealt with that one. Have I not?

MR DANIEL BURGER: No, you have not.

MR PHILLIP JABULANI MOLEKETI: I have not?

MR DANIEL BURGER: No.

MR PHILLIP JABULANI MOLEKETI: Oh.

“The GEPF's initial investment committee in the sum of 350 million US dollars of the overall investment of value of the fund of 435 million US dollars had been drawn down to an extent of some 87.5 million US dollars. That is as of March 2018.

The value of that investment was independently

valued at 102.6 million US dollars, equating to some R1.2 billion...”

I know that his irritates Commission Marcus, but I am sticking to my statement, Commissioner. No offence meant.

“Between March 2018 to February 2019, the sum invested by the GEPF then increased to almost 182 million US dollars. The gross internal rate of return and to March 2018 was to the tune of 44.4 million US dollars. In terms of US dollars and 40% in terms of Rands.

The same principle of scrutiny, accountability and transparency applied in regard to PAIDF2.

Insofar as Lebashe is concerned, in respect of which my colleague...[intervenes]...”

MS GILL MARCUS: Just before you move onto Lebashe. Just to stay with that – those numbers for a minute. If I understand this correctly. From inception in 2012, would that have been?

MR PHILLIP JABULANI MOLEKETI: Ja.

MS GILL MARCUS: To 2018. If you go from 87.5 million US dollars to a 102.6 million US dollars, it is roughly 15 million US dollars that was earned by the GEPF over that period.

MR PHILLIP JABULANI MOLEKETI: The fund closed, if I am not wrong, in 2016. June 2016.

MS GILL MARCUS: Okay, but your numbers here indicate the total value of that investment was independently valued at 102.6 million.

MR PHILLIP JABULANI MOLEKETI: Yes. March 2018. Yes.

MS GILL MARCUS: Right. So, from 87 million US dollars to 102 million US dollars is roughly 15 million US dollars that was earned in that period.

MR PHILLIP JABULANI MOLEKETI: Ja, sure.

MS GILL MARCUS: Okay?

MR PHILLIP JABULANI MOLEKETI: Ja.

MS GILL MARCUS: Thanks.

MR PHILLIP JABULANI MOLEKETI: Ja, sure.

MR DANIEL BURGER: Can I just ask in relation to that because there seem to be some – speaking pass one another. When is the, if you know, when is the 87.6 million US dollars drawn down? Is it drawn down in 2012 when the fund is established or is drawn down in 2016 when the fund is closed?

MR PHILLIP JABULANI MOLEKETI: Normally, the drawing down, as the statement said, it is when the investment opportunity occurs. The exact date, I will have to defer to Mr Mahloele. I would not know exactly when that exact date is.

MR DANIEL BURGER: So, would it be sometime between 2012 and 2016?

MR PHILLIP JABULANI MOLEKETI: I would guess that it could be probably around 2016, but I think we will verify that.

MR DANIEL BURGER: Thank you.

MS GILL MARCUS: I think that is just really indicative that from the time of inception... Obviously, the draw down occurs with the investment and therefore, it may not be 2012. It may be – only up to 2016.

MR PHILLIP JABULANI MOLEKETI: Sure.

MS GILL MARCUS: But in the period of time that the fund was drawn down until 2018, 15 million US dollars was earned?

MR PHILLIP JABULANI MOLEKETI: Sure. Ja.

MR EMANUEL LEDIGA: Just to check. Fund 2, is it from 2012 to 2024, is it not? It is a twelve year fund.

MR PHILLIP JABULANI MOLEKETI: Twelve year... Yes.

MR EMANUEL LEDIGA: PAIDF2.

MR PHILLIP JABULANI MOLEKETI: PAIDF2.

MR EMANUEL LEDIGA: Is that from 2012 to 2024?

MR PHILLIP JABULANI MOLEKETI: When do we count? We count from 2016 or 2012. Because the close was in 2016.

MR EMANUEL LEDIGA: Oh, ja. Okay. All right.

MR PHILLIP JABULANI MOLEKETI: You know.

MR EMANUEL LEDIGA: But it is a twelve year fund?

MR PHILLIP JABULANI MOLEKETI: The setting up of the company was 2012, you know.

MR EMANUEL LEDIGA: Okay. All right.

MR PHILLIP JABULANI MOLEKETI: So, I think the key thing is to count from the close of the fund, which is 2016.

MR EMANUEL LEDIGA: Okay. But it is a twelve year fund?

MR PHILLIP JABULANI MOLEKETI: It is twelve year fund, if I recall.

MR EMANUEL LEDIGA: Oh, all right.

MR PHILLIP JABULANI MOLEKETI:

“Insofar as Lebashe is concerned, in respect of which, Mr Wheatley will give more detailed evidence, I was

involved with him. That is Mr Warren Wheatley and Mr Tshepo Mahloele, in its establishment.

It is a private management and advisory company in which I, through the Mbenzane Family Trust, have an interest. This is a matter of public record.

So, is the fact, that I was appointed as a non-executive director to the board of Lebashe in January 2017. I am remunerated accordingly.

The establishment of Lebashe – Mr Mahloele explained what lies behind the name – occurred eight years after I resigned as the Deputy Minister of Finance.

My involvement in Lebashe has absolutely nothing whatsoever to do with my earlier positions in government or in either of the Harith entities. This was a private venture and it is a private matter.

Having set out in detail my affiliation with HFM, HGP and the Lebashe, I turn to focus to some of the specific allegations made by Mr Holomisa in his evidence...”

MR EMANNUEL LEDIGA: Just another question before you go forward. You mentioned that HGP was formed as a multi-fund company, all right?

MR PHILLIP JABULANI MOLEKETI: Yes. Ja.

MR EMANNUEL LEDIGA: So, when you buy funds in Mauritius and Nigeria or whatever, where do you put them? Do you put them under

Lebashe or under HGP?

MR PHILLIP JABULANI MOLEKETI: Lebashe? There is no relationship between Lebashe and Harith General Partners. Those two entities – the only thing that creates a relationship, which I think is something that I must deal with – is that both, Mr Mahloele and I are directors in both companies, right? That is one. And Mr Mahloele is the chairman of Lebashe.

The second area that I think also creates this confusion, is the fact that we are housed – we are located in the same office park. That is for efficiency purposes, you know. Those are the only two relationship.

When you talk about issues around, the entities are separate. There is no cross-pollination in terms of funds, acquisitions and all that. Both of them are two separate entities.

MR EMANUEL LEDIGA: But the question is. These new funds which are being bought, I do not know, are they within Lebashe or within HGP?

MR PHILLIP JABULANI MOLEKETI: Which funds are those?

MR EMANUEL LEDIGA: Mauritius, I think and...[intervenes]

MR PHILLIP JABULANI MOLEKETI: Which funds are those?

MR EMANUEL LEDIGA: I do not know who they are. I mean...

MR PHILLIP JABULANI MOLEKETI: What I know, is that Harith had offices in Mauritius, you know, to manage a number of other activities, partnerships with different partners on the continent and we had an executive, Lesiba, who was tasked with the management of those relationships.

It had nothing to do with Lebashe. Those were Harith activities, establishing relationships with different partners. And I think those are some of the investments and partnerships that Mr Mahloele referred to in his evidence. It is a partnership with an entity in Nigeria. That is Harith. It has nothing to do with Lebashe.

MR EMANNUEL LEDIGA: All right. To be clear. So, there are – HGP is a multi-fund company.

MR PHILLIP JABULANI MOLEKETI: Yes.

MR EMANNUEL LEDIGA: Are there any companies that HGP has bought in the past wire?

MR PHILLIP JABULANI MOLEKETI: Besides the partnership...[intervenes]

MR EMANNUEL LEDIGA: Or is just the JV's and the partnership which you are talking about?

MR PHILLIP JABULANI MOLEKETI: Ja. currently, what I know, it is a – I speak under correction – is the partnership and the JV's.

MR EMANNUEL LEDIGA: Ja, ja. All right. Okay.

MR PHILLIP JABULANI MOLEKETI: Now I am on paragraph 58.

MR DANIEL BURGER: Now when you refer to the transcript, page 16 of 29, you are in fact referring to what is now Exhibit 2 and it is page 34.

MR PHILLIP JABULANI MOLEKETI: Yes. Okay. Thank you, counsel.

“I have dealt with my relationships with the relevant companies. I have also explained how the seed funding from the PIC came about. I deny that Mr Mahloele's employment with the PIC coincided with

his duties at the PAIDF.

Accordingly, there can be no allegation of a conflict of interest. I deny and take exception to the description of being a PIC operative, that Mr Holomisa has assigned to me and the others...”

Operatives are normally a description being send to intelligence or operatives or special forces or operatives. Not business persons of good standings, like ourselves, you know. So, we take serious offence to that.

“And I also deny the unfounded allegations that I sought to create an empire on the back of PIC funds. All of these allegations are extremely hurtful and damaging to me. I do not mean to sound arrogant, but I believe I am a respected former deputy minister, having served my party and my country and I am now a businessman, using my acquired skills and talents to the best of my ability, as I am fairly and constitutionally entitled to do.

Mr Holomisa’s unrelenting slander in this regard will be thoroughly dealt with in the actions for deformation already instituted, pursuant to the urgent application...”

MR DANIEL BURGER: Now when you get to page 18 of 29, that is Exhibit 2, page 36.

MR PHILLIP JABULANI MOLEKETI: Sure.

“It is hard to define the importance of the link sought

to be drawn by Mr Holomisa, regarding the business address of HGP and Lebashe. As I indicated earlier, HFM, Harith Fund Managers, remains in existence but is now essentially a passive fund generating entity.

All three companies are entirely separate entities. Lebashe rents from HGP in an arm's length transaction. These entities share premises for the sake of operational convenience. There is nothing untoward about this arrangement.

All my interest have been disclosed to each and every board of directors of the companies which I serve..."

Now moving to the next page.

MR DANIEL BURGER: Page 20 of 29. Is Exhibit 2, page 38.

MR PHILLIP JABULANI MOLEKETI: Ja.

"I repeat, that there was never a conflict of interest in existence when I was the Deputy Minister of Finance or at any time thereafter. I only received remuneration from HFM after I ceased being the Deputy Minister of Finance.

In conclusion:

The allegations that Mr Holomisa has made against me, are indeed unfounded. They have no basis or facts. They are spurious, damaging and self-serving. I ask that they be treated with a great circumspection by the Commission and I freely avail, Chairperson myself further if needs to be to assist the work of the

Commission at any time...”

Commissioner, Chair thank you very much, but my son said I must quote this aspect, you know. I have two sons. Themba, he has sent me this and I would like to end my statement with that. It is quote from Saint Augustine. Saint Augustine says:

“The truth is like a lion. You do not have to defend it.
Let it loose. It will defend itself...”

Thank you very much.

CHAIRPERSON: Thank you.

MR DANIEL BURGER: Thank you, Chair. We have no further questions.

CHAIRPERSON: Advocate Lubbe.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

MR EMANUEL LEDIGA: Ja, I just got one or two questions. Can you just hang on, Advocate Lubbe? Just two more questions before you go, from our side. I think, you know, we have tried to converse the facts over the many days, you know.

And perceptions are another thing, which is quite a hard thing to deal with. I mean, broadly, you know, perceptions have been that GEPF has been given you guys money. You know, 600 million US dollars.

That the PIC has funded like, seeded you with money and the finance or Capitec shares to the tune, of what, billions of Rands. And you know, people say, you were the Deputy Minister of Finance. You were in the PIC. PIC’s chairperson. Mr Mahloele has been in the PIC also.

It is just people think that this is a just a schoolboy club, you know, that is just getting money from the PIC. Do you want to make a comment about that? About these perceptions, given the fact that we have canvassing a lot of facts around this issue.

MR PHILLIP JABULANI MOLEKETI: Sure. Ja. You know... Thank you very much, Commissioner for that question. I think, through your Chairman, this, I hope, this Commission will go a long way of providing facts and making people stop believing in this era of fake news of anything that they read on social media, you know.

And I think that, to me, to us and hence we came voluntarily. It is an opportunity for ourselves to tell our story and to tell what the truth is. I think that is one thing that I would like to say. And I value and I am grateful of being given this opportunity.

The second matter is that, being the Deputy Minister of Finance, when I resigned on the 25th September 2008, everything stops immediately, you know. In government, you know.

These are the things you have a – you put in a – when you are a public office bearer, a resignation and you have a month's notice. No. Remuneration stops on that day and there is not in existence anything that stops or preclude a public office bearer from engaging in activities that enhances...

When I talk about activities, I am talking about legal entrepreneurial activities, that enhances their well being or their income or their family wealth. There is not. There is nothing that is called garden leave, you know.

There are no constraints of trade. There is nothing like that.

So, from the 25th September 2008, I was free to engage in any entrepreneurial activity. And I think that is one of the things that ought to be stated quite clearly, you know.

The fact that – because of the Deputy Finance Minister, I was associated with the PIC. I think to establish the facts, is to look at, what is it. What sort of transactions? I will talk about Lebashe, because that is a private one which came like eight years later.

What sort of transaction were we engaged in? Mr Mahloele went into the details, that did not follow the rigour and the required process within the PIC. This thing of being the favoured boys, when the PIC in that fund, that unlisted fund, is having more than a hundred other...

You know, so the hundred favoured boys are supposed, so that we do not reduce to three, you know. So, it means, if that is the perception. There are many other individuals and companies that have benefited from the PIC.

To be isolated, I think it is basically for other ulterior motives, for us to be perceived as people that are always favoured, as operatives. I think it is basically to drive a perception against ourselves. Against our interest. And also, to undermine our own integrity.

No such things have happened. We are here. Mr Wheatley will come and clearly explain the processes that we followed in acquiring that. Over and above that, of all our other funding and transaction – we are not only funded in Lebashe by the PIC.

Mr Mahloele explained, the other commercial banks that are

involved, you know. Mr Wheatley will explain that other commercial banks that are involved in all of our other transactions.

It is only the Capitec transaction of the many that we are involved in, that was funded by the PIC. So, if everyone says that whatever we do, we get funded by the PIC. That is false and it is untrue.

The third element. We value our partnership with the PIC. I want to put that on that record. Because through the PIC, not just ourselves, but a number of other entrepreneurs, were able to realise their dreams of being entrepreneurial, of building of wealth and increasing the participation of Africans and black people of this country in the economic life of this country.

And I think the role that the PIC has played, cannot be minimised. It has played a significant role. I know a number of black asset manager who are who they are today, because of the role and the investment and the confidence that the PIC had in them.

We are one of those and we appreciate that. We are one of many good examples of PIC's investment activities. And I think it is important to, just to underline, to underline those facts.

And lastly, nothing untoward. We were not favoured. We went through the same rigour, like everyone else. Over and above that, as Mr Mahloele has indicated, the PIC has benefited handsomely from our transactions.

I think the figure of 1.7 billion profit was mentioned the other day and I am saying, that in itself, ourselves have also generated a lot of revenue for the PIC. So, it was a mutually beneficial association

between ourselves and the PIC, talking as an investor and a director in Lebashe.

MR EMANUEL LEDIGA: Thanks. My second question. It is a broad but difficult question and I hope Mr Burger does not shoot me down. Do you as former chair of the PIC, do you think that trade unions should have members on the board of the PIC?

MR PHILLIP JABULANI MOLEKETI: [No audible reply]

CHAIRPERSON: Okay, he is quiet.

MR PHILLIP JABULANI MOLEKETI: No.

MR EMANUEL LEDIGA: Look, it is a difficult question and it is, yes, it is in our terms of reference. So, I thought, let me take advantage.

MR PHILLIP JABULANI MOLEKETI: You are really putting on the edge.

MR EMANUEL LEDIGA: Yes, yes.

MR PHILLIP JABULANI MOLEKETI: In my political life when I was a member of the ANC, I advanced position that did not make me the most favoured person amongst my comrades in the unions. But in this one, I would say, you know, when you look at the trustees of the GEPF, they are made up – the unions have a seat as the trustees of the GEPF.

The real – the true custodian of the pensions of the works, that is the GEPF. And I think it would be very difficult for the unions to manage a conflict of sitting on two sides of the table.

I hope that it is thought through carefully because you hold the PIC on a mandate that you give to the PIC and if your fellows are also in there, you know, does that not begin to undermine your capacity to exercise your option as the custodian.

That I think is a questions that I will put. I think it will be quite... Ja...

MR EMANUEL LEDIGA: So, it is basically the agent and principle conundrum.

MR PHILLIP JABULANI MOLEKETI: Ja, absolutely.

MR EMANUEL LEDIGA: How do you hold the PIC accountable if you are part of the investments decisions on the board of the PIC? Is that what you are saying?

MR PHILLIP JABULANI MOLEKETI: That is exactly. You have put it more eloquently, Commissioner. That is exactly what I am saying.

MR EMANUEL LEDIGA: All right. Thank you very much. It was not my position. I was still investigating. I am just trying to explain it, ja.

MR PHILLIP JABULANI MOLEKETI: I have given my views. I hope when I walk out here, I still have more friends than I have now.

MR EMANUEL LEDIGA: Ja, thank you very much.

CHAIRPERSON: Just before Advocate Lubbe asks you questions. I just want to say that, in my mind, the reason why you are being singled out, is precisely because you were at the PIC as chair and at the same time chair of HFM, which was setup and then you moved to HFM and other established management companies thereafter.

I think that is the question that people are asking: How did this happen? Was it somebody cooked up whilst they were at the PIC and so on. I think that is why it appears that you are being singled, despite there being other people or institutions that benefited from the PIC. That is what I think the position is.

MR PHILLIP JABULANI MOLEKETI: Sure. No, no. Commissioner, if

the intention was to explore that, there are a number of avenues that could have been established, particularly with the Commission.

To say to the Commission: I have these questions. Can we investigate whether there was something untoward in terms of this transition? I do not think I warrant to be called a hyena in the public media as Mr Holomisa has done, you know.

And I think that is where the big issues are, that the question should be raised if people feel that there might be something. I have no problem with that. I accept it, you know.

But it is how you do it and all the other adjectives, you are touched to raising those questions. It is on the basis of that, that I believe the motive was not a genuine motive, because it was not accompanied with facts. It was just slander and insults.

CHAIRPERSON: That is fine. I understand that. I deliberately kept out, reference to the kind of animal that you mentioned just now.

MR EMANNUEL LEDIGA: It is just to follow up. It is quite intriguing. Do you think that General Bantu Holomisa has got any motives, other than to say: I want the Commission to look at that.

Do you think there is anything personal maybe or he was just trying to assist the Commission? Or do you think there is something that he has got against you, maybe, or the company or Mr Mahloele and all that, broadly?

MR PHILLIP JABULANI MOLEKETI: I would answer it, that there is an undeclared motive. It is true. What it is, I cannot speculate. Because anyone who genuinely seeks to find the truth, you do not go to the media, insult people, playing them in a particular light and then come

to the Commission and pretend that you are genuinely seeking the truth.

I find that a little devious. Very difficult to accept its nature that it is genuine and its intentions are pure. So, I will say, there is a motive and it is not a motive that is kind to my name, the name of my colleagues, Tshepo and Warren Wheatley because it has harmed our good name.

So, the intention was to harm our good name. What the exact motive is, I can speculate but the intention has been served by that.

MR EMANUEL LEDIGA: Okay, thank you. Thanks.

CHAIRPERSON: Right. Yes, Mr Lubbe.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner. Mr Moleketi, I will be brief in my cross-examination and I will stick to the terms of reference of this Commission and I refer particularly to 1.4 – or 1.3 of the terms of reference which reads that:

“Where there any PIC director or employee used his or her position or privileges or confidential information for personal gain or to improperly benefit another person...”

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: I am going to stick to that.

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: I have listened with great interest to your opening statement about the first ten, twelve years of the new democracy and people like Alec Owen and Trevor Manuel, and on the face of it, inexperienced people, leading government.

I must perhaps just mention to you, it is not peculiar to South Africa. It is an international problem. I have learnt this morning over the radio that a comedian has been elected as the president of the Ukraine.

So, I think what we need from politicians, is not so much experience in what they are doing, but honesty and integrity and supporting the values we all stand for. Is that not what we are really looking at?

MR PHILLIP JABULANI MOLEKETI: Absolutely. And the leadership qualities that they come with.

ADV JANNIE LUBBE SC: Exactly. Now let me start with what I could term objective facts. That is not dispute and what you have testified about. And that is, first of all, it is common cause that the PIC engaged the GEPF with this proposal to go out to Africa and to implement the knee pad dream of former President Mbeki.

And it seems to me, that it is also a fact, that the reason for that was, because it was not in the mandate of the PIC to go outside of South Africa with investments. Would you agree?

MR PHILLIP JABULANI MOLEKETI: Yes. At that point, yes.

ADV JANNIE LUBBE SC: Yes. And in anticipating the go ahead from the GEPF, if I may call it so, an advance party was sent out by the name of Tshepo Mahloele to establish this vehicle and to realise the dream of investing in Africa. Will you go along with that?

MR PHILLIP JABULANI MOLEKETI: When you mean, can you explain that advance vehicle, so that at least I know that?

ADV JANNIE LUBBE SC: Somebody was elected to selected by the

PIC to go into the private sector and to establish this vehicle.

MR PHILLIP JABULANI MOLEKETI: The viability of such an idea?

ADV JANNIE LUBBE SC: Yes.

MR PHILLIP JABULANI MOLEKETI: Sure. Okay.

ADV JANNIE LUBBE SC: And this was done, as one of the Commissioner has mentioned, without following a process. Finding out, is this the best person to go out to do the job? You agree with that?

MR DANIEL BURGER: Chair, I am not sure that, that has been established. I asked Mr Moleketi specifically, whether he was aware of the process that was followed and whether he was partied to that, and he said no. But we do not know what process, if any, was followed by the PIC, in identifying Mr Mahloele and that would be for the PIC to say.

ADV JANNIE LUBBE SC: Perhaps I must put it more clearly. On the evidence of Mr Mahloele and yourself, it would seem that he was just selected to go out without any process being followed and we will ask Mr Mahloele when he comes back and we will ask the PIC when they come here, but as far as you are concerned, you were not part of the process.

MR PHILLIP JABULANI MOLEKETI: No.

ADV JANNIE LUBBE SC: Who was the CIO at the time at the PIC?

MR PHILLIP JABULANI MOLEKETI: The CIO, if I recall, could have been Dr Dan Matjila.

ADV JANNIE LUBBE SC: And he would have been part of the executives?

MR PHILLIP JABULANI MOLEKETI: He was the... Ja, in the executive...[intervenes]

ADV JANNIE LUBBE SC: Now we will ask him. He will come to the Commission and we will ask him about that.

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: Now we all know that this vehicle was then established by Mr Mahloele.

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: And in the beginning, he bought a shelf company and he held the hundred percent shares in that shelf company before it was transferred to the PIC. Is that correct?

MR PHILLIP JABULANI MOLEKETI: Ja.

ADV JANNIE LUBBE SC: And it is also clear from the evidence from Mr Mahloele and yourself that the GEPF then invested 250 million US dollars in PAIDF1 to a fund manager who was a start-up fund manager in the market with no proven track record. Will you go along with that?

MR PHILLIP JABULANI MOLEKETI: You know, in my opening remarks, I thought I was addressing that aspect because it is about, that it was a new fund. It is true. But it is not entirely true that people who are leading the fund had no track record to talk about. They might not have had a track record in the private equity or in fund management.

ADV JANNIE LUBBE SC: I am not questioning the members or the people involved. I am saying, the fund itself had no proven track record.

MR PHILLIP JABULANI MOLEKETI: It was fund... It was the first fund, yes.

ADV JANNIE LUBBE SC: Yes.

MR PHILLIP JABULANI MOLEKETI: It was the first fund, ja.

ADV JANNIE LUBBE SC: And the GEPF invested 250 million US dollars in PAIDF.

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: Would you agree, that the only reason that they did that - and we will ask them when they come here, I am just asking your perception of that – it is only because of the relationship with PIC and perhaps the trust they had with PIC, that they went this route.

MR PHILLIP JABULANI MOLEKETI: I would not answer on their behalf, sir. Advocate Lubbe. I would not answer on their behalf.

ADV JANNIE LUBBE SC: All right.

MR PHILLIP JABULANI MOLEKETI: But what I know of all the investors, is that they invested because they supported, first and foremost, the concept of investing on the African continent. Investing in infrastructure.

And also, they were quite comfortable with the returns that were part and parcel of the agreement with the fund.

ADV JANNIE LUBBE SC: Did the PIC and the GEPF involvement in that fund, do you think it played a role?

MR PHILLIP JABULANI MOLEKETI: That...?

ADV JANNIE LUBBE SC: The involvement of GEPF and the PIC, did that play a role, the other investors coming to invest, ABSA, Old Mutual and those people?

MR PHILLIP JABULANI MOLEKETI: I would not speak on their behalf.

I think it would be important, probably, to establish that independently of the investment, to say exactly what persuaded you as ABSA to invest 125 million US dollars.

ADV JANNIE LUBBE SC: All right. We also know that the original idea was that the PAIDF and the Harith Management people will be totally independent from the public sector. Is that correct?

MR PHILLIP JABULANI MOLEKETI: Ja.

ADV JANNIE LUBBE SC: That was the idea.

MR PHILLIP JABULANI MOLEKETI: That it should be run like a private...

ADV JANNIE LUBBE SC: And the PMVA and those other statutes must not be applicable?

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: All right. Now we have the situation developing, that after the hundred percent shares were transferred to the PIC, suddenly -And we do not know the reason. We will have to ask them – But suddenly... But you were still there. Perhaps you can tell us.

There is this reluctance to transfer shares to the other investors who, according to Mr Mahloele, were promised that they will get shares, so that it will enable them to appoint directors on the board and to take part in the management of this fund.

MR PHILLIP JABULANI MOLEKETI: I would say, it was a difficult process, but I do not like to speculate. The PIC hopefully will be here. They can answer fully what was the task around implementing that.

ADV JANNIE LUBBE SC: Was it not discussed at board level?

MR PHILLIP JABULANI MOLEKETI: The what?

ADV JANNIE LUBBE SC: The non-transfer of shares to the other investors?

MR PHILLIP JABULANI MOLEKETI: No, I do not recall it getting up to the board level.

ADV JANNIE LUBBE SC: But you were still at that time the chair of the board?

MR PHILLIP JABULANI MOLEKETI: I was the chair of the board up until...[intervenes]

ADV JANNIE LUBBE SC: 2008.

MR PHILLIP JABULANI MOLEKETI: The 25th September 2008.

ADV JANNIE LUBBE SC: Yes.

MR PHILLIP JABULANI MOLEKETI: If it was before then, I was still the chair.

ADV JANNIE LUBBE SC: Yes. And you cannot recall it was discussed at board level?

MR PHILLIP JABULANI MOLEKETI: I do not recall it being discussed at the board level.

ADV JANNIE LUBBE SC: All right. Then for some or other reason, the PIC gives in and it then transfer shares to the other investors, like ABSA and Old Mutual. They get 12%. And then for some or other reason, the PIC decides, notwithstanding the agreement with Harith and the GEPF: We are going to keep 46%.

MR PHILLIP JABULANI MOLEKETI: Ja. That, one of the things that Mr Mahloele in his evidence is led, is that there could have been another shareholder which is the AFDP, but because of certain

immunities that the AFDP required, they pulled back and ultimately, because it was a shareholding, a percentage remaining, the PIC grabbed it.

ADV JANNIE LUBBE SC: What I also do not understand and it is a fact, that you who testified to that, Mr Mahloele testified to that, the PIC had absolutely no exposure to risk.

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: They had no role to play. They invested nothing, except for the seed money they paid.

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: And they got repaid with interest.

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: But now they sit with 46% of the shares and they share in the wealth of this new fund managers. Why?

MR PHILLIP JABULANI MOLEKETI: I would say, it is a recognition of the role. I will not address the scale, but it is the recognition of the role that the PIC played as the initiator. Secondly, there is always a goodwill element. And hence, I suppose.

ADV JANNIE LUBBE SC: But the questions, the further question is. If that is the answer, is it not the true that should share, the GEPP? They invested the money, the bulk of it. And I must make a correction, Mr Commissioner.

I handed up a legal opinion last week and I stated – on the document it appears to be April 2019. It is not correct. I also learnt a lesson. It was on the website of some or other organisation. If you pull it down from the web, it gives the date you pull it down. The date

of that opinion is 2009.

So ...[intervenes]

MR DANIEL BURGER: Chair, I am sorry to interrupt my learned friend, but I do not understand the basis of this cross-examination. There is a document in the bundle, starting at page 96, which is a letter to the Minister of Finance, recommending that the PIC remain with 40% of the shares in the management company, dated the 26th May 2009, long after Mr Moleketi had left government.

And the recommendation is accepted by the Minister of Finance, Mr Pravin Gordan, that the PIC will remain with 40% of the shares in HGP – in HFM. I beg your pardon.

There was then, as Mr Mahloele testified, some back and forth about the further 6% and the PIC remained with 46% of the shares but as to 40% of the 46%, there is a government decision that, that should be the case.

I am not sure how – on what basis Mr Lubbe is suggesting that the GEPF should be entitled to – or should have been entitled to shares in the place of the PIC.

Why Mr Moleketi should be quizzed on that and in any event, if this is something that arose in 2009, one would think that litigation in that regard has long since passed its sell-by date. I am not quite sure what the point of this aspect of the cross-examination is and how Mr Moleketi can help.

CHAIRPERSON: Yes, Mr Lubbe.

ADV JANNIE LUBBE SC: I am just asking the witness, Mr Commissioner to testify and to provide an answer to facts that are not

in dispute. We have the situation that it is common cause that the whole idea of this fund, the establishment of the fund, to be outside of government.

Then we have a turnaround by the PIC and the legal opinion that I handed up was to say that the GEPF challenged that position. My question is and I think I have lost the track of it now.

Oh, that is it. Why, and notwithstanding, the opinion is dated 2009, why must the PIC benefit from the investment by the GEPF? The question, should it not be the GEPF that should benefit as the main investor?

CHAIRPERSON: Yes. I think if Mr Moleketi is able to answer that question, he can go ahead and answer it. Or if you do not know...

MR PHILLIP JABULANI MOLEKETI: I was about to say, I do not have an answer for that question. The only answer, it is stated in our...

ADV JANNIE LUBBE SC: But for the moment, forgetting about your previous political cap, and putting on your expert investment cap now. If you look at these facts objectively, do you think it is fair? Is it correct?

MR PHILLIP JABULANI MOLEKETI: I think that is a matter that, if it arises, that if it is arising sociable that the PIC and the GEPF have to resolve and I have no further comment on that.

ADV JANNIE LUBBE SC: The last question I want to ask you and it is really not – have anything to do with the terms of reference, but it might assist the Commission on some of the recommendations. You testified that at the moment of you getting out of your position as Deputy Minister of Finance, you could immediately explore as an

entrepreneur other opportunities.

MR PHILLIP JABULANI MOLEKETI: Sure.

ADV JANNIE LUBBE SC: My question is. Do you not think it would be a good thing, ethically, for people in high political positions to have a cooling off period before entering the private sector? Can I just have your view on that?

MR PHILLIP JABULANI MOLEKETI: It is an idea that could be explored, but as we all know, garden leaves and restraints of trade, are paid for. It would mean, whether or not, the tax payer is prepared to remunerate at the same level someone who was in public office.

Who leaves for a particular period, you know, paying the pensions and everything that goes with it, to ensure that they do not engage in any activity. There is a cost to it. But I am saying, it is something that, I am sure, if it is applauded, it is something that can be examined. I want to emphasise, restraints of trade, garden leaves are paid for.

ADV JANNIE LUBBE SC: Okay. The last question is. It would appear from Mr Mahloele's evidence and your own evidence that after PAIDF and the starting of PAIDF2, there was not really any appetite from the private sector in South Africa and very little appetite from outside South Africa. Is that correct or not correct?

MR PHILLIP JABULANI MOLEKETI: Mr Mahloele in saying that, went further to explain, that a number of our initial partners had constraints because of basil requirements, you know. Particularly the financial institutions. That also – the financial sector – that also goes to insurance companies and all that, you know.

That limited the ability to continue to participate in such investment vehicles and I think that is quite important, so that there is an objective reason that precludes some of these initial partners to participate in these ventures.

ADV JANNIE LUBBE SC: Thank you. Mr Commissioner, I have no further questions.

CHAIRPERSON: Thank you. Any re-examination, Mr Burger?

MR DANIEL BURGER: I have no further questions, Chair.

CHAIRPERSON: Thank you very much, Mr Moleketi. Thank you for your time and your evidence that you have placed before us. It certainly cleared up certain of the factors that were raised or issues that were raised before us and I think in your statement, you have said at the end, that you remain available, should you be required.

MR PHILLIP JABULANI MOLEKETI: Sure.

CHAIRPERSON: So, we will remember that and maybe you will be called back in due course.

MR PHILLIP JABULANI MOLEKETI: Okay.

CHAIRPERSON: Otherwise, thank you very much for your time, sir.

MR PHILLIP JABULANI MOLEKETI: Thank you, Chairperson. Thank you, Commissioners. Thank you.

CHAIRPERSON: You are excused for now.

MR PHILLIP JABULANI MOLEKETI: Thank you. Thank you.

ADV JANNIE LUBBE SC: Mr Commissioner, will it be convenient to take the lunch adjournment now until quarter past two – or quarter to two?

CHAIRPERSON: Yes, that is fine. We will then adjourn until quarter to

two.

MEETING ADJOURNS:

MEETING RESUMES:

MR DANIEL BURGER: Chairperson, before Mr Wheatley commences, might I hand up an affidavit to the Commission? It is an affidavit by Mr D’Onofrio. He is the compliance officer about whom we spoke about last week for Harith GP.

The essence of the affidavit is that, at all times, either Harith FM or Harith GP were properly licensed and he sets out in the affidavit exactly how the licensing worked at all relevant times, to make sure that when they were conducting business, they were properly licensed.

Might I hand up the affidavit and have it made Exhibit 8? The deponent is present if the Commission wants to hear from him. That could also be done. But perhaps, if you could just have a look at the affidavit and see if there is anything that arises there from.

CHAIRPERSON: Mr Lubbe.

ADV JANNIE LUBBE SC: I have not seen, Mr Commissioner, but I have no objection, going in.

MR DANIEL BURGER: We do not... Unfortunately, we only have the original hard copy, but we do have it in soft copy as well, which we can send to the Commission and send to our learned friend.

CHAIRPERSON: I think... All right. We will give it an exhibit number. But we will ask somebody to go and make copies, at least for us.

MR DANIEL BURGER: Thank you, Chair.

CHAIRPERSON: All right. I am just trying to find Mr Wheatley’s statement. Let us carry on. No, it is just I have misplaced my

statement of Mr Wheatley.

MR DANIEL BURGER: We might have a spare copy.

CHAIRPERSON: An additional copy, please.

MR DANIEL BURGER: Oh, there we are.

CHAIRPERSON: Thank you very much. Your full names, please Mr Wheatley.

MR WARREN GREGORY WHEATLEY: Good afternoon, Commissioners. I am Warren Gregory Wheatley.

CHAIRPERSON: Yes. Do you have any objection taking the oath?

MR WARREN GREGORY WHEATLEY: None, sir.

CHAIRPERSON: Will you then swear that the evidence you are 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 WARREN GREGORY WHEATLEY: I do. So help me God.

CHAIRPERSON: Thank you. You may be seated.

WARREN GREGORY WHEATLEY: (d.s.s.)

MR EMANUEL LEDIGA: Mr Burger, I was just checking and some of the stuff have been canvassed by Mr Mahloele and possible Mr Moleketi. So, maybe there could be some places where we just skip and all of that. Ja?

MR DANIEL BURGER: Yes, we can do that.

MR EMANUEL LEDIGA: You can just see how you deal with it. Ja?

MR DANIEL BURGER: I will do that.

MR EMANUEL LEDIGA: All right, thanks.

MR DANIEL BURGER: Thank you, Mr Lediga. Mr Wheatley, you have before you your statement which runs from page 1 to page 15. Is that

correct?

MR WARREN GREGORY WHEATLEY: That is correct.

MR DANIEL BURGER: And do you confirm that the contents of the statement are correct?

MR WARREN GREGORY WHEATLEY: I do.

MR DANIEL BURGER: Perhaps if you could start reading your statement, as we have done with the other witnesses and then as Mr Commissioner Lediga has indicated, we will jump over parts that have already dealt with in greater detail by Mr Mahloele.

MR WARREN GREGORY WHEATLEY: Sure. Thank you.

“My name is Warren Gregory Wheatley. I am 40-years old. I am a businessman, a chartered accountant and a certified financial planner.

My qualifications include being a chartered accountant, a certified financial planner. I also hold a Postgraduate Diploma in Corporate Finance. A Postgraduate Diploma in Financial Law and a Postgraduate Diploma in Auditing.

I am the founders of the Lebashe Investment Group. I am a beneficial shareholder. An executive director of Lebashe. I am also its Chief Investment Officer.

In addition, I am a non-executive director of Aluwani Capital Partners (Pty) Ltd, Broll Property Group (Pty) Ltd, Likamva Resources (Pty) Ltd, RainFin (Pty) Ltd and Legesi Home Solutions (Pty) Ltd.

I serve as an independent trustee of the Telkom

Retirement Fund and Chair of its Investment Committee, which has an excess of 14 billion in assets under management.

I have worked as an Investment Banker and Wealth Manager at ABSA Capital where I managed a portfolio of ultra-high net worth families and their investment decisions.

Prior thereto, I played various roles within the institutional consulting and actuarial business of Alexander Forbes, where I was head of one its consulting at actuarial branches, having consulted to a range of its high-profile corporate clients.

I have prepared this statement as a response to the allegations made by Mr Bantubonke Harrington Holomisa during his testimony before this Commission on 20 March 2019.

Mr Holomisa makes a number of allegations against Lebashe and me that are false and highly defamatory. This is not the first time he has done so.

My early history:

From May 2003 until May 2011 I was employed by Alexander Forbes and from June 2011 until June 2013 by ABSA Capital in its ABSA Wealth division.

One of my clients at ABSA Capital was Mr Tshepo Mahloele. In 2013, I left ABSA Capital and set up an independent advisory company, called TSS Capital.

Its function was to advise on the structuring of deals and on mergers and acquisitions.

At approximately that time, I advised Mr Mahloele on the structuring and finance of the Capitec share purchase, referred to in his evidence and further below.

For the purposes of the Capitec transactions, we had decided that a special purpose vehicle would be set up and for this reason a company by the name of Petro Touch was established in 2015. The name of that company later changed to Lebashe.

Lebashe:

Lebashe has always been and remains a one hundred percent black-owned unlisted investment holding company.

It has three directors; Mr Moleketi, Mr Mahloele and me. It has an experienced, multi-faceted management team, and has grown significantly since its inception.

Its vision is to become a leading African investment company by focusing on financial services.

Its core aim is to create a balance sheet that will outlive its creators and produce multi-generational wealth by establishing a conglomerate of companies operating collectively.

Lebashe has a number of investments. These include:

- 8.4 million Capitec Shares;
- Approximately 29% of EOH Holdings;
- 74.92% of RainFin;
- 28.73% of 4 Africa Exchange;
- And a number of others, that I have not mentioned...”

These were specifically raised by Mr Holomisa and that is why specific reference has been made to them.

The Capitec share transaction:

“As previously testified, Mr Mahloele was one of the beneficial shareholders in and a director of a company called Coral Lagoon.

Coral Lagoon owned 10 million Capitec shares which had purchased for R30,00 per share.

For a number of reasons, it had approached the PIC with an offer to sell some of these shares, with the result that in February 2012 in a fully published transaction, the PIC purchased almost 5.3 million of these shares at just over R156,00 per share.

I add this:

This transaction was widely published in the media, but more specifically, in the Johannesburg Stock Exchange, Sens, which is their news network.

As appears more fully below, Lebashe was the purchaser of these shares from the PIC and later another parcel of shares from Coral Lagoon, making it

today one of the largest stakeholders of Capitec.

Capitec is a South African retail bank, whose core focus is to simplify banking and banking products for customers. It is differentiating features from other banking services, include low bank fees and a simple easily accessible internet banking application...”

I will now deal with the first Capitec transaction:

“On 29 February 2012, the PIC acquired 5.3 million CPI BEE shares from Coral Lagoon at a price of R156,00 per share.

For the sake of brevity I will continue call in the 5.3 million Capitec shares and will round off share prices.

PIC reached an agreement with Capitec, essentially, that the shares would:

- A. Be on-sold by the PIC only to another BEE investor. This is what we refer to in the industry as warehousing. So, the intention was never to be a long term holder of these shares, but to find and on sell them to a BEE party.
- B. That the sale to such an investor would take place within five years...”

MR EMANNUEL LEDIGA: Mr Wheatley, a question here. In terms of the warehousing, was the PIC BEE credentials quite good to sit within that company, Coral Lagoon, to be part of that consortium, basically?

MR WARREN GREGORY WHEATLEY: The PIC specifically and we

have had this in evidence before and it is verifiable independently, have setup the Isibaya Fund which has almost perfect BEE credentials and are used to facilitate – and this fund is used to facilitate BEE transactions.

And is a perfect vehicle for warehousing and facilitating BEE transactions. And when I say, near perfect BEE credentials, I mean, in terms of the BEE Codes and the various categories of ownership, desired by those codes.

MR EMANNUEL LEDIGA: Okay. All right.

MR WARREN GREGORY WHEATLEY:

“The PIC hold the Capitec shares for a period of three years prior to the offer by Lebashe.

On the 23rd February 2015, Lebashe being a hundred percent black owned entity, sent to the PIC a fully funded and unsolicited offer to purchase the 5.3 million Capitec shares.

The offer presented by Lebashe was supported by a fully funded scheme from Investec Bank, sufficient to cover one hundred percent of the purchase price, including all transaction costs...”

MR EMANNUEL LEDIGA: Just another question there. Sorry to jump in there. Who were you dealing with at the PIC? Who were the main parties or the top parties there, you were dealing with, that time?

MR WARREN GREGORY WHEATLEY: As is common in business, the offer to purchase was directed to Dr Dan Matjila, who then directed us to a team of analysts who assessed the business merits of our

application.

“On 4 March 2015, a counter offer in respect of the 5.3 million shares made by the PIC in response to our original offer was received and accepted by Lebashe.

The share price at which the agreement was concluded was calculated at R325,00 per share.

The first set of agreements in this regard was concluded during April 2015...”

MR DANIEL BURGER: Mr Wheatley, can I stop you there. Once Mr Matjila had referred your offer down, who – what was the entity with which you dealt and who were the people that you interacted with?

MR WARREN GREGORY WHEATLEY: I believe it was the area within the PIC that specialised in unlisted investments. More specifically, employees who fell under the Isibaya Fund banner and more specifically, Mr Thurstan Moodley. He was one of the investment professionals that we dealt with.

MR EMANNUEL LEDIGA: Can you remember a name? I am sure we can find it, but can you remember some names there?

MR WARREN GREGORY WHEATLEY: The team at the time was headed by – there was a large team, made up of compliance investment professionals and legal. The legal guy was a gentleman by the name of Koketso... Sorry, Kabelo Mabe. There was Mr Mervin Muller. Koketso. Sorry. The names escape me.

MR EMANNUEL LEDIGA: Mabe. I think it is Mabe.

MR WARREN GREGORY WHEATLEY: Mabe. Correct.

MR EMANNUEL LEDIGA: Ja, ja. Okay. All right.

MR WARREN GREGORY WHEATLEY: Our day to day interactions were however with Mr Thurstan Moodley, primarily.

MR EMANNUEL LEDIGA: Okay. All right.

MR WARREN GREGORY WHEATLEY:

“There was a time lapse of some two months due to various approvals required to be obtained from both Investec and the PIC. By the time the transaction was to be executed, the share price had increased to R461,00 per share.

The PIC then insisted on receiving the higher share price even though, in our view, it was already bound by the lower price under the signed and sealed agreements.

After considering its position, which included litigation to enforce its rights, Lebashe accepted the upward adjusted price of R461,00 per share. This meant that the overall profit on the sale for the PIC was approximately 1.7 billion...”

MR DANIEL BURGER: Can I stop you there? To calculate this 1.7 billion, you are taking the price differential in the three years that the PIC held the shares?

MR WARREN GREGORY WHEATLEY: Correct.

MR DANIEL BURGER: From R156,00 at which they bought the shares to R461,00 at which they sold the shares.

MR WARREN GREGORY WHEATLEY: Correct.

MR DANIEL BURGER: Which was the differential of R316,00 a share.

MR WARREN GREGORY WHEATLEY: Correct.

MR DANIEL BURGER: Times the 5.3 million shares.

MR WARREN GREGORY WHEATLEY: That is correct.

MR EMANUEL LEDIGA: There is two follow up there also. Did you not sort of have an agreement? When you were talking to the PIC, did you not actually have some sort of agreement by the time, you know, from the time you started talking, up until you concluded this, in terms of the share price moves?

Sometimes, I think, people do that and say that if the share price moves, we are not going to pay for this or we will pay ...[indistinct] all the other things.

MR WARREN GREGORY WHEATLEY: Mr Commissioner, the...[intervenes]

MR EMANUEL LEDIGA: Am I clear with my question, ja?

MR WARREN GREGORY WHEATLEY: Yes, you are very clear. I can explain in depth. I do warn you that it is complex, but if you like, I would go through it. But to answer...[intervenes]

MR EMANUEL LEDIGA: No, no. You make it simple. Just make it simple and brief, you know. Do not worry. Ja.

MR WARREN GREGORY WHEATLEY: To answer your question. The sale an entire of suite of documents, agreeing the price, agreeing the method of execution, including delivery date of the shares was all agreed in fully executed legal documents.

It was only once the trade was put through the market mechanisms of the JSE, that the PIC changed their position on the price.

MR EMANUEL LEDIGA: And was the PIC legally right to do that?

MR WARREN GREGORY WHEATLEY: We believe strongly they were not correct.

MR DANIEL BURGER: That they were not correct.

MR WARREN GREGORY WHEATLEY: That they were not correct, in taking that position. Our options were to enforce our rights through litigation, in which case, we may still have been embroiled in court right now.

Or to perhaps conclude the transaction at that price and we agreed on the latter.

MR EMANUEL LEDIGA: Choose sort of a middle ground of sort. Is it not?

MR WARREN GREGORY WHEATLEY: Well, the middle ground, I will get to a minute.

MR EMANUEL LEDIGA: Okay. All right. Thanks.

MR WARREN GREGORY WHEATLEY:

“The acceptance by Lebashe of the increased share price came with a request from Lebashe to the PIC for funding assistance. To fund the difference in price.

As the funding previously raised was only sufficient to settle the lower purchase price. The Investec funding structure had been executed and was inflexible.

Lebashe, therefore, required the PIC to fund the cost of the excess share price in an amount of R270 million.

Following the negotiations, the PIC eventually agreed to provide the funding for the difference, subject to strict terms and repayable within three years.

The R720 million was loaned to Lebashe at an interest of 13%, which was arguable higher than any other rate paid by Lebashe to anyone else.

The loan was repayable by 28 February 2018. Lebashe requested an extension to roll over the debt to the PIC, but that was refused.

We then repaid the loan in full by 14 April 2018 with all interest accruing thereon. The total amount paid to the PIC, including capital, interest and penalty interest was R935 million.

The PIC benefited from this transaction, not only by an increase in the share price of R136,00 per share but also by earning an interest of some R250 million on the capital advanced...”

MR EMANNUEL LEDIGA: Just a question. Maybe you might want to deal with it later or now. Like in terms of that R720 million loan, what was the security package? Maybe you want to deal with this one and the next loan, as a broad security package.

MR WARREN GREGORY WHEATLEY: I will deal with the question now because the two transactions while linked were done on different methods. So, when we acquired the 5.2 million shares, our security package only required roughly 4 million of those shares to be pledged to Investec as security, which meant that we had approximately 1.4 million or 1.3 million, let us call it, incumbent shares, that we offered as security to the PIC.

MR EMANUEL LEDIGA: What was the cover then?

MR WARREN GREGORY WHEATLEY: The cover ratio was at all times in excess of two times cover. In other words, the value of the shares, at all points in time, were required to cover the outstanding loan balance.

MR EMANUEL LEDIGA: Ja, and the cover the Investec cover. This is the PIC cover. And what was the Investec cover ratio?

MR WARREN GREGORY WHEATLEY: The Investec cover was not an equity backed loan and so, cover ratios did not necessarily apply. We used a derivative technology, called a zero cost collar, which effectively meant that the shares were – it was almost one-to-one cover, but a very different structure as compared to the equity backed loan from the PIC.

MR EMANUEL LEDIGA: Okay. So, it was... Yes, it was different. Okay. All right. Sure. But I am interested in the PIC. So, it is fine.

MR WARREN GREGORY WHEATLEY: Sure. I will move then onto the second PIC transaction. Sorry, the second Capitec transaction.

“The events and circumstances described in the rest of the statement, took place and arose over a period of about two years with significant and repeated exchanges on several levels of importance.

The discussions and negotiations amongst the parties were complex and fiercely contested. The crux of it is set out below.

In approximately mid-2016, Lebashe conceived of a transaction in terms of which it would seek to acquire the remaining 4.7 million Capitec Shares still held by Coral Lagoon.

It was the intention to obtain all 10 million shares and then list them on the JSE BEE Exchange. For reasons internal to Coral Lagoon, however, it turned out that only 3.1 million of the shares ended up being purchased by Lebashe.

The price negotiated for these 3.1 million shares was R1.4 billion. For this, Lebashe needed funding and was, as it is customary in this industry, required to obtain such funding before an offer to purchase could be submitted.

The GEPPF, through the PIC, as its fund manager, was then approached by Lebashe...”

MS GILL MARCUS: Sorry. Can you explain that? I do not quite follow. Did you deal with the GEPF or with the PIC? Or is it an GEPF investment?

MR WARREN GREGORY WHEATLEY: The actual hard currency was categorically owned by the GEPF. We dealt with the PIC in their capacity as agent or fund manager for the GEPF, but at no point did we have discussions with direct employees or staff of the GEPF.

MS GILL MARCUS: But you are aware, if I understand you correctly, that the GEPF signed off on that, to the PIC?

MR WARREN GREGORY WHEATLEY: As far as I am aware.

MS GILL MARCUS: Yes.

MR DANIEL BURGER: And who were the people at the PIC with whom you dealt in relation to this transaction?

MR WARREN GREGORY WHEATLEY: In this particular transaction, we dealt with Mervin Muller and the same unlisted team as the parameters of this investment fell within their ambit of responsibility.

MR DANIEL BURGER: When you say unlisted team, you mean the team that dealt with unlisted investments?

MR WARREN GREGORY WHEATLEY: Correct.

MR EMANNUEL LEDIGA: Well, is it called SIPS Structured Investment Products or something like that?

MR WARREN GREGORY WHEATLEY: I believe it is, yes.

MR EMANNUEL LEDIGA: Okay. All right. Next question...[intervenes]

MS GILL MARCUS: Oh, sorry. Just give me one second. I just do not understand where the GEPF comes into that. Would that not have been

internal matter between the PIC and the GEPF, rather than involving the counter party?

MR WARREN GREGORY WHEATLEY: Through the Chair. The legal documents we signed were with the GEPF. So, the understanding was that the loan was issued by the GEPF, but the PIC represented the GEPF and was signatory to the agreements in their capacity as agent for the GEPF.

MS GILL MARCUS: Sorry. Advocate Lubbe, can we just under our notice for when we discuss with the GEPF – because I am just not sure why in some instances they would sign off on a deal and it is not the normal agreement between them and the PIC.

There might have been some particular circumstance, but it is a matter for us when we raise it with the GEPF.

ADV JANNIE LUBBE SC: It is noted.

MR EMANUEL LEDIGA: Follow up question. On paragraph 24, I think. No, no. Paragraph 29. Coral Lagoon. Pre-emptive rights. When the PIC bought the first tranche of shares and when you guys bought from the PIC and then you are trying to buy that 3.1 million, what was happening to sort of the pre-emptive rights that the other shareholders in Coral Lagoon had, at that point in time?

MR WARREN GREGORY WHEATLEY: Thank you, Chair. The pre-emptive rights is one of the issues where I referred to complex negotiating that took place over a period of two years. So, it is indeed true that pre-emptive rights existed and each one of the participants in Coral Lagoon enjoyed those rights.

Part of the negotiations that took place, was discussions with

each shareholder within Coral Lagoon to waive those pre-emptive rights. What ended up, having us not acquire all the shares, is that in certain cases, not only were those pre-emptive rights not waived.

In certain circumstances, we were compelled to pay compensation to people to waive those rights, and in other cases, people just choice not to participate in the transaction at all.

MR EMANNUEL LEDIGA: Which is why you still do not have those 10 million shares which were in Coral Lagoon.

MR WARREN GREGORY WHEATLEY: That is correct.

MR EMANNUEL LEDIGA: Ja, ja. Okay. All right. And did you have to pay quite a lot to waive rights? You do not have to tell me the numbers and all that.

MR WARREN GREGORY WHEATLEY: There was no outright cash-flow, but in certain circumstances, we were forced to enter into a call option agreement with certain participants, which had they exercised the call option, would have been to my mind, excessively expensive for the waiving of those rights.

It ended up not having been exercised. So, it would be untrue at this point to say that we had to – that there was an exchange of goods, but certainly, it had every probability of being expensive.

MR EMANNUEL LEDIGA: Okay. Ja, thanks.

MR DANIEL BURGER: I think you are at paragraph 39.

MR WARREN GREGORY WHEATLEY: Correct.

“The ultimate funding facility agreement with the GEPF and I stress, through the PIC, represented all times by the PIC, was the result of lengthy and

detailed negotiations, demands and exchanges and the successive offers were reworked and reformulated a number of times to receive buy-in from the various participants and to obtain final approval.

The Isibaya Fund at the PIC was the organ responsible for these negotiations and the team with whom we engaged were led by Thurstan Moodley.

Once these negotiations had been concluded, during August 2016, the GEPF agreed to make available to Lebashe a funding facility in total of R1.5 billion which was to include a provision for various taxes, brokerage fees, advisory fees to independent third parties, legal fees and other administrative costs.

Effectively the capital amount secured with this loan for the share purchase was R1.2 billion. Funding for the additional R200 million had to be found and was obtained by Lebashe from Sanlam Wealth and Peregrine. These smaller loan has already been repaid...”

MR EMANUEL LEDIGA: Question again. When we had that big spreadsheet here, it showed that about 1.3 billion was drawn-down, you know. So, what is that difference between the 1.2 million and the 1.3?

MR WARREN GREGORY WHEATLEY: The difference would relate to the PIC’s own facilitation fees or advisory fee or setup fee. Whatever you want to call it. Which was approximately 80 million and the difference would have been interest from the date of issue up until the

date of the report.

MR EMANUEL LEDIGA: And in terms of fees, you know, one of the big things at this commission, has been fees. I do not know whether you know. Corporate finance fees and everything. Were you paid any fees? I mean, do you have a corporate finance unit which was paid any fees?

MR WARREN GREGORY WHEATLEY: Categorically not. We paid fees to our lawyers. We were represented by CBH. We would pay them approximately R3.5 million. We engaged an advisory firm, called One Capital to whom we paid about 10 million and – but to answer your questions.

We do have a corporate advisory business within our group. We decided specifically to exclude them from participating. It helps for you to assess any deal objectively, you know.

When your own team does it, you struggle to see the wood from the trees. So, in all deals where, you know, passion may play a role, we decided to use independent third party advisors to assist us.

But just to be clear and for the record and because fees are such a deliberate matter in this entire Commission of Inquiry, no beneficiaries, indirect or direct of Lebashe or Petro Touch received any fees for any working on this transaction.

MR EMANUEL LEDIGA: That 10 million to One Capital, is that...? You said, One Capital.

MR WARREN GREGORY WHEATLEY: That is correct.

MR EMANUEL LEDIGA: I have not heard of the firm, One Capital.

MR WARREN GREGORY WHEATLEY: Yes.

MR EMANUEL LEDIGA: Okay. What? Is it a new firm? Is it a...?

MR WARREN GREGORY WHEATLEY: Just to be sure. No, they are not a new firm. They come with incredible credentials. We use them from time to time. They have been in existence in excess of fifteen years. I cannot talk to their exact credentials.

MR EMANUEL LEDIGA: It is fine. Ja, I just... Ja.

MR WARREN GREGORY WHEATLEY: But also to be clear, the PIC did not fund the payment of their fees.

MR EMANUEL LEDIGA: Of the R10 million.

MR WARREN GREGORY WHEATLEY: Yes. Those fees were paid directly out of our own accumulative profits. The loan from the PIC or from the GEPF, included only a provision for their fees and statutory costs associated with share acquisitions, which include STT and brokerage...

MR EMANUEL LEDIGA: Ja, okay. No, it is fine. Thank you.

MR DANIEL BURGER: Paragraph 32.

MR WARREN GREGORY WHEATLEY:

“The facility agreement was signed on 15 August 2016. The collateral for the repayment of the loan consisted primarily of a pledge of the 3.1 million Capitec shares, which were the subject of the sale and which, as at the date, were valued in the market at the sum of approximately R645,00 per share.

The value of this security was sufficient, being in excess of the amount of the loan. The term of the loan repayment was five years.

And just for the sake of brevity, the share cover ratio and one of the covenants of that transaction, was that the share cover ratio was to remain in excess of two times at all points in time...”

MR EMANUEL LEDIGA: The interest rate, I am sure you mentioned it somewhere.

MR WARREN GREGORY WHEATLEY: It was 13%.

MR EMANUEL LEDIGA: 13% still?

MR WARREN GREGORY WHEATLEY: Correct.

MR EMANUEL LEDIGA: Okay. All right.

MR WARREN GREGORY WHEATLEY:

“The material terms of the loan were included in the schedule, published on the PIC’s website, showing the rate of the return, the amount loaned, the intended use of the funds in order to demonstrate that the terms of properly market related, together with all its other unlisted investments...”

MR DANIEL BURGER: And that is the exhibit that was handed up last week.

MR WARREN GREGORY WHEATLEY: Correct.

“After lengthy negotiations and several iterations of the relevant agreements, a sale with Coral Lagoon was concluded.

Given the nature of the offer, all of Capitec, the Competition Commission and the Takeover Regulation Panel had to approve the deal prior to its conclusion.

All of these entities individually approved the deal.

The loan and purpose of the loan that Lebashe received from the PIC was disclosed in its widely published Isibaya Investment Schedule, which identified all the PIC's unlisted investment, as at 31 March 2017..."

MR DANIEL BURGER: That is the same document that we just spoke about.

MR WARREN GREGORY WHEATLEY: That is correct.

"The current debt by Lebashe...[intervenes]..."

MR DANIEL BURGER: Sorry, it is Exhibit 4.

MR WARREN GREGORY WHEATLEY: Yes.

"The current debt by Lebashe to the PIC, based on the facility funding agreement is R1.5 billion. This includes interest payable on the loan..."

I must state this categorically and must be part of the record. Repayments thereof are up to date and Lebashe have not missed a single payment.

"As can be seen from the foregoing, as a result of both Capitec transactions, the GEPF and consequently the PIC will generate a considerable profit for its clients and beneficiaries.

I estimate that it will be in the region of R2.9 billion, made up as follows:

- The first Capitec transaction. A capital profit on the sale shares and the maths is simple. R461,00

minus R156,00 times 5.3 million shares equates to almost over R1.6 billion.

- Interest on the loan of R720 million. This was R215 million.
- The total profit on the first transaction, therefore, totals in excess of R1.8 billion...”

I must stress that this is not an estimation. These are profits that have been banked and successfully accrued to GEPF beneficiaries.

MR DANIEL BURGER: Mr Wheatley, if you could just, while you are on that point of the payments, just make mention of footnotes 1 and 2.

MR WARREN GREGORY WHEATLEY: Correct. So, footnote 1. This was paid to the GEPF, represented by the PIC in May 2015. Footnote 2. This was paid to the GEPF, represented by the PIC in April 2018.

MR DANIEL BURGER: So, the first amount is the profit on the sale of the shares and the second amount paid is the interest on the loan of R720 million?

MR WARREN GREGORY WHEATLEY: Correct.

“The second Capitec transaction. Structuring fee charged by the PIC of R17 million...”

MR DANIEL BURGER: And just to be clear. Footnote 3 says, that was also paid.

MR WARREN GREGORY WHEATLEY: Correct.

MR DANIEL BURGER: To the PIC in July 2017.

MR WARREN GREGORY WHEATLEY: Yes. And then, if the loans runs to completion, an estimation of the interest to be earned on the loan at

the end of its terms, would be in excess of R1 billion.

Lebashe through this single transaction would therefore have generated to – would have contributed to GEPF beneficiaries to the tune of almost R3 billion or R2.9 billion.

MR DANIEL BURGER: When you say this one transaction, you mean both Capitec transactions?

MR WARREN GREGORY WHEATLEY: Correct.

“The Funding transaction described above, is the only one of its kind, concluded between PIC and Lebashe and Lebashe does not exclusively rely on the PIC or any entity, for that matter, for its investment funding.

Our total debt, as at 28 February 2019, was in excess of R7.4 billion. Of that, only R1.5 billion is due to the PIC, which accounts for less than 20% of our fund in total.

This reflects that contrary to Mr Holomisa’s unfounded claims. Lebashe’s business activities are by no means limited to our involvement to the PIC.

Lebashe has many other clients and partners under our umbrella and stand securely on our own two feet, quite independently of the PIC of the GEPF.

As required by the agreement concluded...[intervenes]...”

MR EMANUEL LEDIGA: Question. Sorry. So, in terms of the two transactions that you did with the PIC, they were structured within various special purpose vehicles, with Lebashe and the PIC owning the

shares?

MR WARREN GREGORY WHEATLEY: That is correct.

MR EMANNUEL LEDIGA: Two vehicles, I would gather, ja?

MR WARREN GREGORY WHEATLEY: Yes, two independent vehicles.

MR EMANNUEL LEDIGA: All right. So, the PIC does not have direct shares in Lebashe?

MR WARREN GREGORY WHEATLEY: Absolutely, none. No.

MR EMANNUEL LEDIGA: Okay, and the loans are in those special purpose vehicles?

MR WARREN GREGORY WHEATLEY: That is correct.

MR EMANNUEL LEDIGA: Okay. All right.

MR WARREN GREGORY WHEATLEY:

“As required by the agreement, concluded with the PIC, Lebashe is reported to the PIC with the following reporting documents and will continue to do so for the duration of the agreement.

Audited financial statements:

As at 28 February 2016, 2017 and 2018, our audit for the year-end 28 February 2019 is currently conducted. We provide unaudited quarterly statements of financial position per quarter.

The last submitted in the fourth quarter of 2018 and the report of the first quarter of 2019, was just sent out a day or two ago and we also submit a quarterly environmental and social and governance report.

The last submitted in the fourth quarter of 2018, and

this reports highlight compliance with other requirements of the deal, including the number of jobs created, adherence to corporate governance principles and sets out our social responsibility initiatives...”

I pause here from the from the statement, just to reflect that one of the themes of some of the other transaction under scrutiny, was the lack of financial or other reporting.

I would just like to confirm that our reporting is completely up to date, including specifically audited financial statements.

MR EMANUEL LEDIGA: And this is the Capitec part. Is it not?

MR WARREN GREGORY WHEATLEY: No, we present consolidated financial statements, which include all Lebashe’s subsidiaries, which includes, with necessity, the two tranches of the Capitec transaction.

MR EMANUEL LEDIGA: Oh, all right.

MR WARREN GREGORY WHEATLEY:

Paragraph 40:

“The PIC did not fund any of Lebashe’s other acquisitions and they are in excess of eight of them. It is important to note that the PIC publicly discloses all its investments, the names of the borrowers, the full nature of each transaction, are fully identified and disclosed to the public.

In addition, the PIC reports on its activities to Parliament Standing Committee on Public Accounts, or SCOPA, and to the Standing Committee on

Finance, members of parliament, including Mr Holomisa are able to access this information readily.

It is public knowledge that the value of the assets of the PIC is some 2 trillion. The PIC has approximately 119 private companies in which it invest a total of R147 billion.

Of that, as it appears above, Lebashe has been funded to the extent of R1.5 billion which constitutes less than 1% of the PIC's investment in the 119 private companies.

This excludes the PIC's investment in listed companies, which accounts for some 12% of the listed capital on the JSE..."

MR DANIEL BURGER: Mr Wheatley, before you move on. The next section of your statement deals with Lebashe's other commercial relationships and I am talking from paragraph 43 through to 47.

I do not think, subject to what the Commission requires, I do not think it is necessary for you to read these paragraphs of your statement into the record. If you want to just briefly summarise what this relates to. I think that will be sufficient.

MR EMANUEL LEDIGA: It is fine. But I need to go back to 42. The statement is generally correct, but you will find that the PIC will fund one grouping of people in four transactions, you see.

So, you might say, it is 119 private companies, but you might find out of that, three or four belong to one group of people and all that. You know, so technically, when you look at total funding, the

number shrinks a bit. Am I correct, ja?

MR WARREN GREGORY WHEATLEY: I would agree with the comment. However, as far as it relates to Lebashe and our investments, we have received – one of our investments was funded by the PIC.

It came through in two separate tranches, but it remains one investment. So, to my mind, we are still – we remain one of 119 companies and the funding extended to us, represents less than 1% of the capital extended to similar transactions.

MR EMANNUEL LEDIGA: I would disagree and say it is two companies, because it is two transactions. But that is a different matter. Ja, would you say that? The SPV's.

MR WARREN GREGORY WHEATLEY: I would concede on that matter, yes.

MR EMANNUEL LEDIGA: It is two companies. It is not one company.

MR WARREN GREGORY WHEATLEY: Just for the Commission...[intervenes]

MR EMANNUEL LEDIGA: Different transaction than in different times and all that. Different packages and different share prices and all of that. Ja?

MR WARREN GREGORY WHEATLEY: The use of separate companies was purely for the structuring of the various debt packages and to ring fence risk.

MR EMANNUEL LEDIGA: Ja, but it is fine. I just... Ja, it is fine.

MR WARREN GREGORY WHEATLEY: I will deal briefly with Lebashe's other commercial interest. We list from paragraph 43 all the way through to 47, a list of a number of our other transactions.

The point simply to make here, is that none of Lebashe's other investment have been funded by the PIC.

MR DANIEL BURGER: And these companies, you have listed because they have been mentioned previously by Mr Holomisa.

MR WARREN GREGORY WHEATLEY: They have been previously listed in the diagram called the spider web of intrigue and other names of that nature. I will then continue with the Chair's permission to the effect of Mr Holomisa's conduct, starting with paragraph 48.

Paragraph 48:

“Mr Mahloele and Mr Moleketi have given evidence as to the very destructive and hurtful nature and the effect of Mr Holomisa's utterances, that depicts us as greedy, unscrupulous and uncaring fat cats.

I stress that these unfounded allegations have been extremely damaging to all of us, both personally and professionally. On each occasion that he makes an allegation, we have had to spent inordinate amounts of time, reassuring our clients and customers and bankers that the accusations are baseless.

We have had to spent considerable amounts of resources in defending ourselves and our reputations in the court process and now before this very Commission...”

MR EMANNUEL LEDIGA: Can I? Sorry, ja. I wanted to go to paragraph 47, actually. You skipped a bit more. So, can we please go to 47?

MR WARREN GREGORY WHEATLEY: Yes. Aluwani Capital Partners.

MR EMANNUEL LEDIGA: Ja, Aluwani Capital was given money by the PIC. Just explain – just take us through that, please. I think that is important.

MR WARREN GREGORY WHEATLEY: Okay. So, through the Chair, I will read through and then explain.

“Lebashe’s directors identified Aluwani as a strategic partner, because it is an active investment manager with research and product capability across asset classes.

Aluwani is an independent black owned investment management business, that aims to make a lasting impact in South Africa and the rest of the African continent.

It is registered with the FSCA and is an improved investment manager in terms of the Financial Advisory and Intermediary Services Act.

Aluwani came about as a result of unbundling of a portion of Momentum Asset Management. First announced in July 2015, which then led in turn to the creation of one of the largest black owned asset management companies in South Africa.

Mr Mahloele, Mr Moleketi and I, together, through an SPV, called Main Street, jointly hold 20% equity share in Aluwani; 40% of the company is held by its management and the remaining 40% by MMI.

Lebashe, as such, does not hold any shares of Aluwani. This is simply a personal investment by the three Lebashe directors.

50% of the cost thereof was funded by us personally and the balance of the 50% through loans to us by MMI in the BEE vendor finance transaction...”

But now to address your question more specifically. I think I need to place in context the asset management environment in addressing this query.

In South Africa today, there are probably around 44 black owned asset managers. I have mentioned that I have worked extensively in the employment benefits arena and more specifically, giving investment advice to trustees who make investment decisions on behalf of a retirement funds.

It is a categorical problem in the country that the boards of trustees have been reluctant to support new black asset managers. Instead of the government through various regulations, which exist, compelling trustees to support young black asset managers, they have instead left it to Corporate SA to promote transformation in this area.

This transformation has been pedestrian at best and I would refer the Commission to a report issued by an asset management business, called 27/4. The results, broadly speaking, is that less than ten percent of a multi-trillion rand industry is managed by young black asset managers.

The PIC, as an instrument for transformation, particularly in financial services have created an incubation programme. Aluwani is

one of 44 or in excess of 44 of black asset managers, have received an allocation to manage a portion of the PIC's listed assets.

I will pause here to advise that these allocations are typically small, relative to what is the norm in pension funds and typically below market related fees.

Every single one of the 44 participants or active black asset managers has an allocation of some sort. I would pause to say that I would struggle to name a single asset manager in the country, white, black, included, that does not have an allocation by the PIC.

To single Aluwani out, is simply unfair and disingenuous. It is one of a number of asset managers in the country who have an outsource mandate from the PIC.

You must remember that as an asset manager, they manage over 12 trillion in listed assets and the job, quite frankly, would be outside of the scope of any one of our asset managers.

And to that end, Aluwani has received an allocation from them and it is a service provided to the PIC and we are just one of 44 black asset managers who deploys such service and one of thousands of asset managers in the country who provide such a service to the PIC.

MR EMANNUEL LEDIGA: So, are you saying then that the PIC angle, basically, is just as a client of Aluwani and no other issues and all that?

MR WARREN GREGORY WHEATLEY: That is correct.

MR EMANNUEL LEDIGA: So, there is nothing untoward, according to you. It is just, the PIC is just a client of Aluwani.

MR WARREN GREGORY WHEATLEY: Correct. We manage a mandate

for them. That mandate is performing well. The mandate, like I said, a similar mandate has been given to almost every asset manager in the country.

There is not a single asset manager in the country, other than your start-ups who could make a claim that they do not manage pension fund monies on behalf of the PIC.

MR DANIEL BURGER: Mr Wheatley, just to make it clear. It is not a payment of money by the PIC to Aluwani. It is a mandate to manage an asset.

MR WARREN GREGORY WHEATLEY: That is correct.

MR DANIEL BURGER: That is under management by the PIC.

MR WARREN GREGORY WHEATLEY: That is correct.

MR EMANNUEL LEDIGA: Yes, and the PIC does pay fees, but for the service that...[intervenes]

MR WARREN GREGORY WHEATLEY: For the service they render. The same way they pay their auditors or their secretarial services or for brokerage or for research. It is a similar situation.

In this case, we provide a service to the PIC for which we are remunerated. I must stress however on this point. I speak for Aluwani. I must stress that this arrangement is in place with almost every single asset manager in this country. There are very few who could say that they do not have a mandate from the PIC.

MR EMANNUEL LEDIGA: Sure, thank you.

MR WARREN GREGORY WHEATLEY: Paragraph...[intervenes]

MR DANIEL BURGER: 52, I think.

MR WARREN GREGORY WHEATLEY:

Paragraph 51:

“We have had to spent considerable amounts of resources in defending ourselves and our reputations in a court process and now before this Commission.

Family and friends of mine and my family similarly embarrassed and humiliated daily and my partner and I are continuously harassed and harangued on social media, practically on a daily basis, as a result of Mr Holomisa’s campaign against us.

It is very difficult to quantify in money the losses we have incurred and continue to suffer, as a result of Mr Holomisa’s unrelenting campaign against us.

Especially the cost of loss opportunities, due to the damage to our reputations which are of course critical in the financial services arena.

We shall nevertheless pursue the claims for damages we have instituted and by way of the confirmation of the interim interdict in due course.

In conclusion:

Given the detailed exposition of Lebashe’s history, conduct and integrity, its overall success and growth and the commercial arrangements it has entered into over the years, there can be no doubt that Mr Holomisa’s statements are without any factual basis at all and that he has grievously misled the public and this Commission.

I, accordingly, request the Commission to treat Mr Holomisa's testimony with great circumspection and I, of course, remain available to assist the Commission further in its work, if needs be..."

Thank you.

MR DANIEL BURGER: Thank you.

CHAIRPERSON: Yes, Mr Lubbe. Do you have any questions?

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner. I have no questions. Perhaps I must place it on record, that in my respectful submission, ninety percent, if not more, of this submission, is not within the terms of reference of this Commission.

CHAIRPERSON: Yes. Then thank you very much, Mr Wheatley. Thanks for your time and thanks for coming to testify before us. Certainly, certain issues have been made clearer to us.

I do hear, Advocate Lubbe saying your testimony is outside the terms of reference but thank you very much and thank you for saying to us that you will be available, should you be required again.

MR WARREN GREGORY WHEATLEY: My pleasure. Thank you.

CHAIRPERSON: Thank you. What did we say, Mr Burger? This affidavit from Leonardo and the other name, as exhibit number?

MR DANIEL BURGER: It is Exhibit 8, Chairperson.

CHAIRPERSON: 8?

MR DANIEL BURGER: Yes.

CHAIRPERSON: Yes, thank you.

MR DANIEL BURGER: Chairperson, all that remains is for Mr Mahloele to return to the witness stand, to complete his cross-examination by my

learned friend.

MR TSHEPO MAHLOELE: Good afternoon.

CHAIRPERSON: I suppose you still have an idea as to the fact that you have to take the oath?

MR TSHEPO MAHLOELE: Yes, Chair.

CHAIRPERSON: Do you still swear that the evidence you are about to give, will be the truth, the whole truth and nothing but the truth? So help me God.

MR TSHEPO MAHLOELE: So, help me God.

CHAIRPERSON: Thank you. You may be seated.

TSHEPO MAHLOELE: (s.u.o.)

CHAIRPERSON: Yes. Just for the record. The witness taking the stand again, is Mr Mahloele.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner. Mr Mahloele, I believe you are freshly back from London.

MR TSHEPO MAHLOELE: Yes, Commissioner.

ADV JANNIE LUBBE SC: I suppose it...[intervenes]

MR TSHEPO MAHLOELE: No, no. Not on any Harith or Lebashe business.

ADV JANNIE LUBBE SC: You were not requested to advise on Brexit.

MR TSHEPO MAHLOELE: I offered.

ADV JANNIE LUBBE SC: You were present this morning during the testimony of your colleague, Mr Moleketi.

MR TSHEPO MAHLOELE: Yes, yes. Through you Chair.

ADV JANNIE LUBBE SC: You heard me questioning him on your movement to Harith.

MR TSHEPO MAHLOELE: Yes.

ADV JANNIE LUBBE SC: Now just to get back to that part of the evidence. Was there any process in place to identify you as the chosen person to be the jockey of this new venture? In other words, were you interviewed? Were other people interviewed? Was it open to other fund managers to apply for the job?

MR TSHEPO MAHLOELE: Through you Chair. I think, you know, perhaps put this thing into perspective and in the way it works when you raise funds. As I eluded to earlier on my – last week, there was a process of resigning from the PIC.

At the time, as you can imagine, it was that thing and then it would be other things that I was actually also going to look at, as it is clear from my other interest, because there was an issue of managing risk.

I then contracted with the Facilitation Trust and has also been eluded to earlier on, the idea at that stage, was that an entity which was going to be collaborative with other players, with other countries, was envisaged.

And that why it had all the sort of things which were liked linked to it and how it should be and what, and during that process of the Facilitation Trust, as I eluded to earlier on, we looked at other partners.

We looked at this. We went around raising funds. Other entities, said they would also like to participate therein and that was the nature of that at that time.

And when...[intervenes]

ADV JANNIE LUBBE SC: Sorry to interrupt you. Just to get back to the basic question I asked you. Nobody else was considered for this position by the PIC.

MR TSHEPO MAHLOELE: Ja, I... For a Facilitation Trust, I was the one that they contracted with. I do not know of anybody else they talked to, because of perhaps or by the skills. For the Harith Fund Managers, at the time, I had raised the fund.

I had interacted with all the investors. I had negotiated all the terms, and in fund management or in private equity funds, I think that is the process that is used to raise funds.

You get one or two people or three. They start going all over the place to people, like entities that they have ...[indistinct] and they then start then raising a fund. That is the way it happens, and once that process is now done, you invariably find that, that team then sets up the management team.

And that is the same way it happened in our case, that when that happened, I had interacted with all the investors. I had setup the fund and I was then appointed as the – as that guy.

CHAIRPERSON: So, all in all. There was no process of interviewing anybody else or the position being put out there to say that we need somebody to act as CEO or whatever position of the Facilitation Trust?

MR TSHEPO MAHLOELE: From a PIC point, I do not think so. Whether there were other people considered or they would have – I would not be aware, but I think at all times, going through this, was definitely putting my hand out, to the extent that one is doing this and raising the fund, one would like to actually lead it, going forward.

I mean, you do that... I do not know of many instances where people go and raise a fund and then give it to somebody else to manage it. So, to that extent, I would say, I also put up my hand or show my intention to the extent that this is successful. I would really not mind to be part of managing that.

ADV JANNIE LUBBE SC: I am not blaming you for getting the job, Mr Mahloele. Not at all. I am just asking, there was no process in place. People interviewed. It was a foregone conclusion, that you will do the necessary and you will set up and consult with people and you will be appointed the CEO.

MR TSHEPO MAHLOELE: I do not think it was a foregone conclusion and why I would say that, is exactly because of if you see all the other challenges which were entered in getting this, even fund manager entity together and the deliberations which came with that.

And I think to perhaps argue that it would be a foregone conclusion, would perhaps also take away from the investors like, believe in their minds that perhaps that this is the team that Tshepo is going to put together.

CHAIRPERSON: But that... The position is that, you were suggested or selected by whoever in the PIC to go and set up this vehicle.

MR TSHEPO MAHLOELE: Yes.

ADV JANNIE LUBBE SC: But you also heard Mr Moleketi testifying about a meeting. A high-profile meeting with people from Nigeria, ministers of finance. You were also present. Is that correct?

MR TSHEPO MAHLOELE: That is correct.

ADV JANNIE LUBBE SC: And the whole idea was this new initiative,

African states buying into this concept, but in the end, nothing happened because Nigeria, I believe, was not interested.

MR TSHEPO MAHLOELE: Ja, I... The partnership with Nigeria did not work. That is then when we went to other parties and then that sort of like, that is how it worked, but with Nigeria it did not work. I think Nigeria subsequently went also on their own to establish their own separate fund.

ADV JANNIE LUBBE SC: Okay, and then you and your team went out on a roadshow, promoting this whole idea of the Renaissance and in the end, it was also not very successful and I am not blaming you. I am just asking, looking at the numbers and the figures. Less than ten percent of funds were provided by other investors.

MR TSHEPO MAHLOELE: Successful or not, my view would be that, this was successful to the extent that you could even get SSNIT to even commit the 10 million dollars that they did.

I think in itself, it meant something to the extent that you could even get South African entities, controlled even by some foreign companies at the time to commit to this fund and to like start building this asset class on the continent.

I would think that, that has been successful. And if I look at the impact that those – these two funds have done up to now, you now starting to get a market that is developing very well on the African continent.

You now starting to like developing a second market. Five years ago, you could not even think about that, on the outside of South Africa and we were exactly using some of those lessons and

experiences learnt out of South African and like in the region, to go implement elsewhere.

And I would think 13 years later and I look back, I would say it has been successful. If you look at the people that this fund has had an impact on. And I think the benefits or South Africa too are great. To think that like what it can contribute to the development of the continent.

And we say – we also talk about the combined amount between the two funds of 600 million dollars as if it was put on one day. This is like a draw-down fund. A capital which is drawn-down over, at least in the case of these funds, is going to be drawn-down over about 16 years.

So, if you look at that amount of contribution or within the bigger space of what from a GPF point of view or like what from South Africa is. In like the development of the continent and South Africa, because now you even find that fifty percent of that portfolio is here. I think it just improves the...[intervenes]

CHAIRPERSON: I think we have heard you. Your answer is: I think it was successful and therefore, I do not agree with you that it was not successful. Am I correct?

MR TSHEPO MAHLOELE: Correct, Chair.

ADV JANNIE LUBBE SC: Thank you, Mr Mahloele. Just a last question and as a matter of interest. We heard testimony by Mr Moleketi about this fund that was established in 2013 in Marrakesh, 25 member countries. Do you know what the amount of that fund is?

MR TSHEPO MAHLOELE: The Africa50 Fund. You know, I think like

the other – I do not know what the actual amount is, but what that you find, is that you find countries pledging to the fund and those pledges, if you think that they are from – not even funds or even their pension funds. They are from the countries.

Those pledges in total, I do not believe that as at today, they are perhaps in excess of 700 million. I am not too sure. But also, if you look at that initiative and to like cast judgment or anything, and the extent of like what it tried – what it is achieving.

And I am sure over time, it will because the continent is... And the amount of transactions they have done, I would like to think the Harith team has really done an incredible job of investing in the assets that they have done, across the continent.

ADV JANNIE LUBBE SC: Thank you. Mr Commissioner, I have no further questions.

CHAIRPERSON: Thank you. Any further questions, Mr Burger?

MR DANIEL BURGER: Thank you, Chair.

CHAIRPERSON: Are you going to be long?

MR DANIEL BURGER: No, I am not going to be long. We noticed that the statement that was printed on the – or that was put up on the Commission's website, it was not – it did not contain the corrections that were made during the evidence of Mr Mahloele.

So, we have had prepared for the Commission, if it wishes, an amended statement, which does record all the corrections that were reflected in Mr Mahloele's testimony and if I might hand that up to the Commission.

The top statements... There are three copies. The top one

has been signed by Mr Mahloele again.

CHAIRPERSON: Yes, I am sure that the record of the evidence that the witness testified to would be on the website.

MR DANIEL BURGER: As well, yes.

CHAIRPERSON: As well, But you may hand those in.

MR DANIEL BURGER: Thank you. And if I could just point out one correction. Well, I will re-examine Mr Mahloele on it and then you will see the point I am making. Mr Mahloele, at page 14 of your statement – this is the new statement that has been handed to you – at paragraph 44.

In your original statement, you said there that Harith GP became active in October 2013, but in the revised statement, the statement is that Harith GP became active in October 2012. Do you see that?

CHAIRPERSON: Just give me those pages again, please.

MR DANIEL BURGER: It is paragraph 44 of his statement. The paragraph number remains the same, but in the original statement, it says there that Harith GP became active in October 2013, where as in the statement, that I have handed up, the changes, that Harith GP became active in October 2012.

CHAIRPERSON: All right.

MR DANIEL BURGER: It seems as though there is a... Well, there is a difference and I just want to Mr Mahloele to explain that.

MR TSHEPO MAHLOELE: Okay, I think the October 2013 was supposed to October 2012 from our side. Nothing more, nothing less. And also, just to like make it clear.

To say Harith GP became active in October 2012, I think that is when we actually registered the shareholding of PIC, because between the approval and the recommendation of the board and then the approval by the board and recommendation to the minister, was I think a time period of between April and October.

But Harith GP became active on the 1st April 2012. They starting to operate according to the new sub-contracting agreement.

MR DANIEL BURGER: The letter that you referring to – or the – is at page 99 of Exhibit 3, where in a letter dated 23 April 2012, the Minister of Finance confirms that the PIC shareholding in Harith GP will be 30%.

MR TSHEPO MAHLOELE: Yes, counsel. Because I think the recommendation by the board was made sometime in March/April and then the approval only came through in October. So, you could only register the PIC share, once the PFMA process had been liked followed.

CHAIRPERSON: So, what should the date be in paragraph 44 then? Or month. Should it be April or...?

MR TSHEPO MAHLOELE: Chair, perhaps at the time, that I was trying to say that maybe like was at October 2012, then the PIC got its permission through Minister Gordan to like take up the 30% in the HGP.

Whereas they becoming ...[indistinct], they starting to trade and moving the management agreement to HGP by HFM, will happen on the 1st April 2012. So, it is just the legalities around that.

MR DANIEL BURGER: No, no. The approval came through in April 2012 as well. If you have a look at the letter at page 99.

MR TSHEPO MAHLOELE: If you check that. The letter is actually from

the PIC and it is actually addressed to Minister Pravin Gordan and the recommendation, as you can see on page 100, is then made by the PIC and then it is signed by their lawyer at the time, the legal division, the CFO, the CEO and the chairman, but you do not have a ministerial approval.

The ministerial approval, to enable to do that, is on another page. Oh, that is page 103.

MR DANIEL BURGER: Oh, yes. I see what you mean.

MR TSHEPO MAHLOELE: If you look at that. That is 15 October 2012. Minister Pravin Gordan giving the approval to PIC to take up the 30%. Only then could you register the PIC's 30% because then the PFMA process is fully followed.

MR DANIEL BURGER: I see that. I just have three further questions that I want to ask you. There was a lot of questioning about your identification to run with the PAIDF, but I think there was some mixing up with different identifications into one.

I think the real question is and if you know, please say. If you do not know, you do not know. I think the questions are referring to the very first time you were identified for this role.

In other words, when you were still at the PIC, you were identified by the PIC as the person to take on this task of establishing this vehicle, which in its original form was the PAIDF Facilitation Trust. Correct?

So, the question is. Do you know how it was that the PIC came to identify you, whilst you were still at the PIC as the person that it wanted to run with this task?

MR TSHEPO MAHLOELE: I would like to think that I had gained experience in terms of infrastructure finance across the continent from my work at the – whether it was CDC or Development Bank of Southern Africa or you know other things or even at the PIC.

And I think it was also on the basis that we had and also in my work, besides making direct investments, also invested in other funds. So, I knew what it would take to do that.

But this was not a foregone conclusion, I would think. Because as I have said, first the Facilitation Trust was created and in that Facilitation Trust, I am sure that we were going to have perhaps the partnership with Nigeria.

There would have been contestation in terms of who is going to head this. Who will do this. And as I have said, that is how it unfolded.

And as at 2006 and 2007, I would like to think that from a PIC process point of view, they followed what they believed was the process for them. And from my point of view, with regards to like contracting with the Facilitation Trust, that became a new contract for me, which was going to be like for a year. Had it not succeeded, perhaps I would not be sitting here today.

MR DANIEL BURGER: Perhaps you cannot answer this question, but you are answering the question of why they choice you. I am not asking why they choice you. I am asking you if you have any knowledge as to how they choice you?

In other words, what process, if any, was followed by the PIC, in coming to the conclusion that you were the person to be identified.

Do you have knowledge of that?

MR TSHEPO MAHLOELE: I am not too sure how to answer it or whether the PIC issued an application for the job. That I do not think that happened. I think I ran with the thing from the Facilitation Trust point of view and on closure of this thing, then there was a fund manager to be put up and I had been the one who had done all that, up that that stage.

So, I think that is how that happened. That is what I would like to think. And I like to think that also, had the other investors, besides GPF, in a form of Old Mutual, ABSA, AFDP, I would like to think that had they any perhaps other concerns or if they did not want to.

I do not think that anybody forced them to like make the commitment to the fund. And let me perhaps just like make another distinguish clear in this case, from a partnership point of view.

PAIDF1 was structured as a investing trust. It had all the bells and whistles to try and protect the investors, in terms of like the investments chosen. In terms of like the process through which – how the fund is managed.

And also, that they had see through to the assets and that is why it was actually structured as an investing trust. It then enabled the investors to stay very close to the investment processes and do that.

And with first time fund managers, this is a norm in many of the instances, that the investors wanted to stay close to the fund manager or to the process to ensure that this happens. Otherwise, you would not even have any new fund managers perhaps coming up.

CHAIRPERSON: Let us do it this way. Did anybody from the PIC tell you that: We would like you to go and set up this new vehicle?

MR TSHEPO MAHLOELE: I think at the time, I interacted with the CEO and the board about all these initiatives and from that point of view, that is why there were also the regular reporting and everything to the board and the National Treasury.

CHAIRPERSON: Can you let us in on the discussions or communications you had with the CEO?

MR TSHEPO MAHLOELE: No. I do not think it was, you know, I will have this job or you must give it to me or whatever. And as I said, I think they have... I do not know. I cannot maybe say, evidence or history...[intervenes]

CHAIRPERSON: No, no. Let us make it easier. You said there were interactions between you and the CEO. What were they? What were those interactions?

MR TSHEPO MAHLOELE: That I would, you know, start running with the Facilitation Trust. Partner up with the Nigerians and do that. And when the HFM was set up... I do not actually remember the time where we said: I will be the CEO. I think from the investors' point of view or from everybody, it was just taken as a – that is what I had been doing and they had put in mechanisms from a board point of view, from a governance point of view, to ensure that like everybody would be comfortable around the table. There was not any side agreement of any sort.

CHAIRPERSON: Yes, Mr... No, there would not be any side agreements, but I was interested in the interaction.

MR TSHEPO MAHLOELE: No. I think I had the interaction, but there was not any agreement which said: No, you will have the job. It is a through pass.

MR DANIEL BURGER: All right. My other question is. When you last testified, Commissioner Marcus took the view or that *prima facie* took the view that in relation to PAIDF1, a return on investment of some 31 million US dollars for the period of PAIDF is not great. Do you have a comment on that?

MR TSHEPO MAHLOELE: I think if you look at it on a basis of having started a fund in perhaps 2007 and you then look at the number in 2018, maybe just like the sort of like that one would come to.

But when you look at funds and when they are invested, they normally have like what they call perhaps also like a vintage. So, this one would be like about ten years vintage. And in this one, would be within a context.

That is the way they always compare funds. On a 1, 3, 5, 10 years sort of like basis. So, this one would be on that 10, 11 years like basis. And initially it would have been around the 2008 sort of like vintage and then the financial crisis.

And if you look at work done by an entity like Cambridge & Associates which has like over, I think 700 fund managers in various categories and everything and you look at the returns that are achieved by the vintage of that year, that within that 10, 11 year period.

You know the only entities that did about in the excess of about 6% was maybe like in real estate. Some of the rich. But then like most of the infrastructure funds did around about 1.5% in terms of

like net.

So, therefore, that is the base ...[indistinct] which funds get in compared, but in addition to that, you know, in Fund 1, we also took a lot of green fields, sort of like risk. Most of the assets in Fund 1 were like from scratch.

So, I think that increases your j-curve, in terms of like your ability to start turning profits and start generating cash and give that back, because you have all the investments made up front and then the fees and then you only get the return, coming out in the later years.

And then in this case, coupled with... Yes, it is not an easy place to do business, Africa. It is green fields. It is Africa and its infrastructure. But then, on that basis, I would like to think that, you know, compared to some of those which are compared internationally and in major markets, we have done better than the average, in terms of Fund 1.

In terms of Fund 2, we are doing very well. So, therefore, looking at that, then I would like to say that what we have done so far, it is something to be commendable and that is why I think you still find that, perhaps even like for Fund 1 you are going to get actually a big kicker, once you start like...

You know, some of these assets, if you can imagine that they have been in construction. They are big infrastructure process for a long time and then, it is only now, I think in the next year or two that they start turning cash profits that yield in that.

So, from that point of view and compared to vintage of other year and looking at Cambridge & Associates, I think we have done

better than average within the infrastructure space.

MR DANIEL BURGER: Is this a report by Cambridge & Associates?

MR TSHEPO MAHLOELE: Yes. And independent report.

MR DANIEL BURGER: Where does that report appear?

MR TSHEPO MAHLOELE: They published the reports like, you know, I think every six months or every year.

MR DANIEL BURGER: Cambridge & Associates.

MR TSHEPO MAHLOELE: Yes.

MR DANIEL BURGER: In relation to Fund 1, Commissioner Marcus also took issue with the increase in the GEPF investment, that in those few years the increase of 50 million US dollars, Commissioner Marcus says is also not great. You have an opposite view. Is that correct?

MR TSHEPO MAHLOELE: If you look that the fund came about... You know, the fund was only established in 2014 and then you only start, sometimes, making your first like sometimes one or two investments in any particular year.

So, therefore, you take time sometimes to like to do draw-downs. Sometimes it is one deal. Sometimes it is two deals. In a good year, you will do maybe three deals in a year.

But I think that amount of money in dollar terms, is still a good investment. And also, all the money is not drawn-up front. It is drawn as you make investments.

MR DANIEL BURGER: And the Cambridge report, does it cover the period span by both funds?

MR TSHEPO MAHLOELE: Yes, it would cover that. And in that regard too, I think we have done better than most within the infrastructure

space, on a comparative basis.

MR DANIEL BURGER: Thank you, Mr Mahloele. Thank you, Chair. I have no further questions.

MS GILL MARCUS: I think it is important to identify what the issue is here because you are looking at when you are investing... I mean, here you have a pension fund that has to ensure that it is sustainable in the long term, according to its actuarial evaluations and when it makes a decision to invest, whether the return is 1% or 20% or whatever those returns are, and the time horizon within that will occur, is something that the risk management and the decision making of either the PIC or the GEPF directly, needs to weigh up.

And therefore, an investment in a fund like this... Because what are we trying to look at. We are trying to look as to whether the best – whether the exercising of the mind of those responsible to ensure that there are adequate returns on investment, weigh up what they should weigh up.

And therefore the decision may well be in terms of the fund itself, that your returns are appropriate, but whether that is appropriate in terms of what the requirements of the GEPF are, is a different risk assessment.

And therefore, what I am raising here, is the return on this, which maybe a 20-year be it a rise with a kick to what you are going to get in due course, is one element of what you would weigh up in that return, when you take an decision to directly invest the amounts of money you are investing, related to your needs.

And therefore, the return needs to be looked at, one, in terms

of what you have invested in, is it appropriate but two, the opportunity cost of that investment versus something else, in relation to what the GEPF requirement is and that is my point.

It is not the question of whether this better than another fund, doing infrastructure. It is what the nature of the investments that are being made, and obviously, a lot of factors are taken into account.

The question of investment in Africa. The need for infrastructure. Transformation. There is a whole lot of issues taken into account. But all of the, in the end, have to be weighed in keeping with the viability, the sustainability and long term equilibrium of the fund itself.

And that is the question I am raising. Not whether simply this return was appropriate, compared to other infrastructure funds.

MR DANIEL BURGER: But then that is really a question for the PIC and or the...[intervenes]

MS GILL MARCUS: Precisely.

MR DANIEL BURGER: The GEPF.

MS GILL MARCUS: Precisely. And that is what we have been trying to ask here, what was weighed up. Because the question here is, we invested in that and I am trying to understand – and obviously, we will come to the GEPF and the PIC to ask these very questions, and that is why we need to understand the thinking of that investment, which is what we have been doing today.

MR DANIEL BURGER: Yes, but that was not a decision for Mr Mahloele to make. That was a decision...[intervenes]

MS GILL MARCUS: I am not saying it was. He has been explaining to

us, how the fund operated and what the returns were and what they took into account in that investment.

MR DANIEL BURGER: Indeed.

MS GILL MARCUS: But that is one element of what the GEPF needed to understand and the PIC needed to understand we need to understand.

MR DANIEL BURGER: Indeed. Thank you.

MR EMANNUEL LEDIGA: Just a different question. The PIC has got an African mandate, I think, currently and you guys, you got a – you got money from GEPF on Africa investments, the infrastructure. Is there some clash there, somehow or do you work together or you focus on different things?

MR TSHEPO MAHLOELE: I think, you know, if I maybe be... Ja, so maybe perhaps for the benefit of the Commission. You know, when we also looked at this, you know, it is perhaps meant for this Commission, but when we also looked at the change over in... Moving from HFM to HGP, you know, one of the discussions we also had with the PIC around infrastructure and actually not – around like also outside of South Africa, was whether we could collaborate and look at things together and do that together.

And I can also say categorically and I am sure if there was a... I remember [Indistinct]. I still have it. Wherein or – not remember. It was done in the negotiations. We actually said to the PIC: You know, you also now have an African mandate and are we going to work together or are you – what is going to happen?

But now we also have like the commitment, because it was like

directly from GEPF. How do we go forward? And we said, you know, recognising that the PIC had been instrumental in the seed capital in the beginning, are normally like you know, your reward investors through that loyalty.

We said, you can keep 10% and we will keep 90% and we will then go and do our own thing. Or you can have 30% and we keep – and then we can collaborate.

We have not collaborated much outside of South Africa. Within South Africa we have co-invested into infrastructure, as I have eluded to earlier on. So, that is the scenario. But then, it ended up with that type of number.

I would have personally, I would have wished for more collaboration. I do not know.

MR EMANNUEL LEDIGA: Okay. Thank you.

CHAIRPERSON: Yes, thank you Mr Mahloele. Thanks for your time. I hope you did not rush back from London, not having finished whatever you went there for.

MR EMANNUEL LEDIGA: I left my family there, Chair.

CHAIRPERSON: So, you will be going back there to fetch them.

MR TSHEPO MAHLOELE: No, they must come back.

CHAIRPERSON: All right. Thank you so much. Thank you very much for coming here to give us what you have given us. The testimony that you have given us and as we said to the others, if it does happen that we need you to come back to clear up something, I hope you will be available. You make yourself available.

MR TSHEPO MAHLOELE: I will, Chair.

CHAIRPERSON: Otherwise, thank you very much. We appreciate your time. Thank you.

MR TSHEPO MAHLOELE: Thank you, Chair. Thanks for having me.

CHAIRPERSON: You are excused.

ADV JANNIE LUBBE SC: Thank you. Mr Commissioner, that is the business for the day. The next witness is going to be long. It is going to take a day. So, we have arranged for her to start tomorrow at ten. If you need to start earlier, we can do that, but otherwise, we start at ten.

CHAIRPERSON: Yes, we will adjourn until ten o'clock tomorrow morning.

ADV JANNIE LUBBE SC: Thank you.

CHAIRPERSON: Thank you.

MEETING ADJOURNS UNTIL 24 APRIL 2019