

COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT

CORPORATION

HELD AT

TSHWANE, PRETORIA

10

10 APRIL 2019

DAY 27

20

PROCEEDINGS HELD ON 10 APRIL 2019

CHAIRPERSON: Good morning, everybody.

ADV JANNIE LUBBE SC: Good morning, Judge.

CHAIRPERSON: Advocate Lubbe, we adjourned yesterday for ten o'clock this morning. It is now about twenty-five past ten. What...? Why is that so?

ADV JANNIE LUBBE SC: I think I will leave it to my colleagues to explain.

CHAIRPERSON: Half past ten. All right.

ADV JANNIE LUBBE SC: Perhaps they can introduce themselves first, Mr Commissioner.

CHAIRPERSON: Okay, let me get the first names first. Please, place the names on record.

MR THEMBEKA NGUCKAITOBI: Good morning, Judge and good morning Commissioners. My name is Thembeke Nguckaitobi. I am on brief from Eric Mabuza and my junior is Ms Jabu Chanza. We are on a watching brief from Mr Holomisa and the UDM.

MR BANTU HOLOMISA: My name is Bantu Holomisa

CHAIRPERSON: No... Yes, I know General, but we... I am still dealing with the legal representatives.

MR DANIEL BURGER: Good morning, Judge. Good morning, Commissioners. My name is Daniel Burger. I am appearing this morning, together with Mr Brian Sloan, Mr Thabang Makgalemele and Ms Lebo Moleboledi. Instructed by Nicqui Galaktiou Attorneys. We act on behalf of Mr Jabu Moloketi, Mr Tshepo Mahloele and Mr Warren Wheatley, as well as Lebashe Investment Group (Pty) Ltd, Harith

General Partners (Pty) Ltd and Harith Fund Managers (Pty) Ltd.

CHAIRPERSON: Can you please just repeat the last... Well, the last of the three names. Moloketi, Mahloele and who?

MR DANIEL BURGER: And Mr Warren Wheatley. It is spelt W-h-e-a-t-l-e-y.

CHAIRPERSON: Wheatley?

MR DANIEL BURGER: Wheatley, yes.

CHAIRPERSON: That is right.

MR DANIEL BURGER: Thank you.

CHAIRPERSON: Yes.

MR THEMBEKA NGUCKAITOBI: Mr Chairman, I should first record our apologies for a later arrival. It is entirely within my team. There are some explanations, but I do not believe they are good enough, but they are entirely between myself and my attorney but I think for me as counsel, is simply to record the apology that we arrived 15 minutes after the scheduled commencement time.

CHAIRPERSON: Yes, we take note of the apology, but I hope that this will not happen again.

MR THEMBEKA NGUCKAITOBI: Thank you, Mr Chairman. We hope to avoid this.

CHAIRPERSON: I think particularly today, because we are scheduled to stop proceedings at twelve and... So, you have eaten quite a bit of the Commission's time and I hope it will not happen again. Yes, thank you.

MR THEMBEKA NGUCKAITOBI: Thank you, Mr Chairman.

MR DANIEL BURGER: Mr Chairman...[intervenes]

CHAIRPERSON: I understand that General Holomisa is here to be cross-examined in terms of an order of this Commission that was issued the other day, right?

MR DANIEL BURGER: That is correct, Commissioner. May I just record that we understood that we were going to be given approximately three hours to cross-examine Mr Holomisa and unfortunately this time this morning is a lot shorter than that. We will do our best to finish the cross-examination this morning, but it might not be possible and if not, we will have to come again on Monday, if that will suit the Commission.

CHAIRPERSON: I understand that. Certainly.

MR DANIEL BURGER: Thank you.

CHAIRPERSON: So, Mr Holomisa. I think we need to swear you in again. I have got your full names as Bantubonke Harrington Holomisa. Those are still your names?

MR BANTUBONKE HOLOMISA: Yes, yes.

CHAIRPERSON: Do you 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 and say, so help me God.

MR BANTUBONKE HOLOMISA: So, help me God.

BANTUBONKE HARRINGTON HOLOMISA: (d.s.s.)

CHAIRPERSON: Thank you. You may be seated.

MR DANIEL BURGER: Good morning, Mr Holomisa.

MR BANTUBONKE HOLOMISA: Good morning.

MR DANIEL BURGER: We meet again.

MR BANTUBONKE HOLOMISA: Yes, we meet again. It is not a big

deal. Go ahead.

MR DANIEL BURGER: Do you remember the last time we met?

MR BANTUBONKE HOLOMISA: Yes, we were in court in Pretoria.

MR DANIEL BURGER: Yes, before Judge Mpati.

MR BANTUBONKE HOLOMISA: Yes.

MR DANIEL BURGER: My clients had brought an urgent application against you in respect of a letter that you had sent to the president and published on your website and published on Twitter.

MR BANTUBONKE HOLOMISA: Yes.

MR DANIEL BURGER: And the urgent application was aimed at interdicting you from repeating the defamatory allegations in the letter and seeking that you take the letter down from the UDM's website.

MR BANTUBONKE HOLOMISA: Yes.

MR DANIEL BURGER: And judgment was granted against you. Do you recall that?

MR BANTUBONKE HOLOMISA: Yes.

MR DANIEL BURGER: And you were instructed to take the letter down from your website.

MR BANTUBONKE HOLOMISA: Yes, but you are also aware that we noted an appeal.

MR DANIEL BURGER: Yes, you have noted an application for leave to appeal and that application has yet to be heard. Is that correct?

MR BANTUBONKE HOLOMISA: Yes, it is correct.

MR DANIEL BURGER: When you testified here the last time, you decided not to make the fact of that application and the papers in that application known to the Commission. Is it correct?

MR BANTUBONKE HOLOMISA: It is correct but let me qualify. You will recall that we wrote a letter to the president, asking the president to institute and inquiry into the PIC to investigate, amongst others, your company or companies.

You will also recall that whilst we were waiting for that response from the president, your clients ran to the high court like spoiled children and fortunately the president had exceeded to our request and hence we are all here.

Notwithstanding that, we did respond to your client's statement in court. Hence we noted an appeal. So, that process is taking its own course, but I am happy that the president of the country – I am sure he has satisfied himself that there is a prima facie evidence to go ahead with the request to investigate the PIC.

MR DANIEL BURGER: Mr Holomisa can I ask you to stop insulting my clients. Can we conduct this cross-examination in a manner that is civil and dealing just with facts?

MR BANTUBONKE HOLOMISA: What do you mean by that?

MR DANIEL BURGER: You just called my clients spoiled children.

MR BANTUBONKE HOLOMISA: Okay, if you are unhappy I will withdraw that.

MR DANIEL BURGER: Do you remember my question to you before your answer?

MR BANTUBONKE HOLOMISA: Yes, I remember the question.

MR DANIEL BURGER: You decided not to make those documents available to this Commission. Is it correct?

MR BANTUBONKE HOLOMISA: It is correct and it was not part of this.

I was complying with the request I made to the president. It is your own business for the issue of the court, because it was never raised here.

MR DANIEL BURGER: You say that you sought the establishment of this Commission.

MR BANTUBONKE HOLOMISA: Yes.

MR DANIEL BURGER: Yet, did you familiarise yourself with the rules of this Commission?

MR BANTUBONKE HOLOMISA: Yes, I read the terms of reference.

MR DANIEL BURGER: Did you read the rules of the Commission?

MR BANTUBONKE HOLOMISA: I am not sure what you are talking about.

MR DANIEL BURGER: Well, I will refer you to the rule. The specific rule that I am referring to is Rule 6.5 of the rules of this Commission which reads as follows:

MR THEMBEKA NGUCKAITOBI: Mr Chairman, I do not think my client has a copy of the rule and if my opponent does not mind sharing it with us.

MR DANIEL BURGER: Mr Holomisa, do you have the rule?

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: You can see that these are the rules. If you go to the front page, these are the rules governing the proceedings of the Judicial Commission of Inquiry into allegations of impropriety regarding the Public Investment Corporation. Do you see that?

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: And Rule 6.5 says:

“Where the evidence intended to be placed before the Commission, has previously been placed before another commission or tribunal or court or body, that fact must be disclosed by the person submitting that evidence, in order for the Commission to secure the relevant transcript in respect of those proceedings...”

MR BANTUBONKE HOLOMISA: I see this and I cannot question this but the truth of the matter is that I did not mention the issue of the court and I am seeing these rules for the first time but that cannot hold the proceedings of this Commission.

MR DANIEL BURGER: Chairperson?

CHAIRPERSON: Yes, you may proceed.

MR DANIEL BURGER: Thank you. Chair, can I ask that two bundles be placed before Mr Holomisa. I believe the Commission has those bundles now. The first bundle is a bundle of the urgent application that served before the high court and the second bundle is a bundle consisting of Mr Holomisa’s submissions to this Commission, together with the transcript of his evidence.

CHAIRPERSON: Yes, we have got them.

MR DANIEL BURGER: Do you have them?

CHAIRPERSON: Yes.

MR DANIEL BURGER: Mr Holomisa, you have the bundles?

MR BANTUBONKE HOLOMISA: [No audible reply]

MR DANIEL BURGER: Can I ask you to look...? There is a very thin bundle, which is your evidence bundle. And then the other one is the application. Can you look at the thick bundle first? Yes, please? And

if you can turn please to page 21.

MR THEMBEKA NGUCKAITOBI: May I ask Mr Burger if he does not have extra copies for the legal representative?

MR DANIEL BURGER: No, we do not have copies. We did not know that there were any legal representatives coming today. We were not informed.

CHAIRPERSON: If I got it right that it is a record dated 20 March?

MR DANIEL BURGER: That is the record, yes.

CHAIRPERSON: 2019.

MR DANIEL BURGER: Yes. This is the official transcripts of the proceedings which I believe is published on the website of this Commission.

CHAIRPERSON: Yes, and can you...? When you refer to it, refer to the numbers at the top righthand corner. When you refer to it.

MR DANIEL BURGER: Yes, that is the paginated numbers. Yes, that is correct and that is paginated page 21. Do you have it, Mr Holomisa?

MR BANTUBONKE HOLOMISA: This one?

MR DANIEL BURGER: Yes, the page. At the top of the page, you will see Mr Lubbe asked you a question:

“Before you came to the Commission today, you were involved in litigation against the Deputy Minister of Finance in his capacity as the Chairperson of the PIC board as well as the board members and Dr Dan Matjila, the former CEO of PIC. Is it correct?...”

Do you remember that question?

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: And you confirmed that you were involved in that litigation.

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: And once again, even in this context you failed to mention to the Commission that you were involved in litigation against my clients.

MR BANTUBONKE HOLOMISA: The question implied that the Commission was aware that I was involved in this litigation and I confirmed it. If there was a follow up question to express that, I would have done so.

MR DANIEL BURGER: It is not for you to volunteer evidence.

MR BANTUBONKE HOLOMISA: Well, that did not come across my mind at the time, but there is nothing wrong in what you are saying.

MR DANIEL BURGER: All right. Will you turn to page 23 of the transcript? And I am reading from line 5. You say the following. You say:

“The information that I had provided in my written submission is meant to assist the Commission to get to the bottom of the allegation of corruption around the PIC...”

You said that?

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: You only speak about these things because you want to uncover corruption. Is that right?

MR BANTUBONKE HOLOMISA: Which things?

MR DANIEL BURGER: Whatever you have brought before the Commission. You have brought before it because you want corruption

to be uncovered. Is that right?

MR BANTUBONKE HOLOMISA: Yes, in other words, what you are missing here is that in my testimony I did indicate that many people including the media has been expressing concerns about the serious allegations of corruption at PIC and what I did was merely to write a letter to the president and say, can these allegations be investigated. I hope I have answered the question.

MR DANIEL BURGER: Well, that is your answer.

MR BANTUBONKE HOLOMISA: That is mine. I cannot be yours.

MR DANIEL BURGER: You continue:

“I certainly do not possess the tools to verify the information that was provided to me. It is only within the Commission’s power or rather power to establish the veracity of the claims made by the anonymous sources. My testimony and the material I am handing over to the Commission should assist you in your task as it is referenced. I am only able to give you the little I have which the Commission could possibly use in its dig work. It could perhaps just be the tip of the ice-berg...”

You said that?

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: What is the material that you handed over to the Commission? Where is that material?

MR BANTUBONKE HOLOMISA: The material I handed over to the PI... To the Commission is with the Commission. So, you can direct that question to the Commission itself.

MR DANIEL BURGER: Well, we asked the Commission that question

and we were informed that you had not handed over any material to the Commission.

MR BANTUBONKE HOLOMISA: No.

ADV JANNIE LUBBE SC: I am sorry to interrupt my colleague. Just to put the record straight, Mr Commissioner. You will recall when General Holomisa testified, there was an Oxford files next to it.

We were asked about whether those files were handed over to the Commission and the answer was no. But the information handed over by the general was contained in the statements he made and annexures to the Commission. Just for the record.

MR DANIEL BURGER: Yes, that is correct. The statements, in fact, that you handed to the Commission, the statement that you read from when you gave your evidence the last time is attached to the application that we have made in order for – to get permission to cross-examine you.

So, I am not talking about those statements. I am talking about the material that you say that you handed to the Commission. What is that material? Is it just the two statements that you handed in or is there more material?

MR BANTUBONKE HOLOMISA: The material I handed over to the Commission has got nothing to do with your clients. Those files are more about the transaction of R1.7 billion on Total SA transaction.

MR DANIEL BURGER: So, the box of files that Mr Lubbe refers to.

MR BANTUBONKE HOLOMISA: Yes.

MR DANIEL BURGER: Is that the material that you say you have handed over to the Commission.

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: Well, if that was not clear before. That is now before the Commission. You say there is nothing in that box of files that says anything about that files. Is it correct?

MR BANTUBONKE HOLOMISA: No, there is nothing.

MR DANIEL BURGER: I beg your pardon?

MR BANTUBONKE HOLOMISA: There is nothing.

MR DANIEL BURGER: So, the only evidence that you have, if one can call it evidence, about my clients is contained in the two statements that you handed in when you started your evidence?

MR BANTUBONKE HOLOMISA: Yes, that is true. And my argument there, if you read it, all the statements. Is more about the conflict of interest which I have identified, conducted by some of your clients or by your clients. Which if you want, I will elaborate later on.

MR DANIEL BURGER: We will get there, Mr Holomisa.

MR BANTUBONKE HOLOMISA: Thank you.

MR DANIEL BURGER: But actually, you do have evidence about my clients. Do you not? And that evidence is contained in the court papers that you studiously avoided placing before the Commission. There is evidence there.

MR BANTUBONKE HOLOMISA: Well, it could be added evidence. You are afraid to table it. If this Commission wants to review the whole judgment. So, it is up to them. I cannot dictate to them.

MR DANIEL BURGER: All right. We will go there in a moment. But your argument in relation to my clients, as I understand it, is that you are asking questions more than placing facts before the Commission.

Correct?

MR BANTUBONKE HOLOMISA: I have placed the facts when I said that your directors of the companies you represent seemed to have access to the PIC funding as opposed to perhaps other colleagues who are in the same field and I am also tabling facts when I say, the deputy... The current chairperson of Harrick...

I mean, the former Deputy Minister of Finance who chaired the PIC as well Mahloele who once worked for the PIC. And I have asked the Commission to say: Why cannot you verify the question that is related to the conflict of interest?

And I am going to engage you today and in future, because I have got also questions which you need to answer together with your colleague – with your clients. Especially, the web of companies which they have since established but using the public funds. So, I am not going to stop on this one.

MR DANIEL BURGER: Well, Mr Holomisa. Let us just be clear. Are you stating these things as facts or...[intervenes]?

MR BANTUBONKE HOLOMISA: They are facts. They are facts. Because I want to prove to you that they are facts.

MR DANIEL BURGER: You do not have to prove to me. The question is, you said before this Commission when you testified the last time. You said: I do not possess the tools to verify the information. Now you are saying you are stating them as facts.

MR BANTUBONKE HOLOMISA: These are facts based on the research I have made, but in order to verify the authenticity of otherwise of those allegations, they have the tools.

MR DANIEL BURGER: You see I want to put it to you, Mr Holomisa before I get to your questions. That this is your pattern. You have done it before when you wrote a letter to the president defaming my clients, when you say, all you wanted really was for the president to set up a commission.

You could have written to the president to say: I have these questions. I think you should set up a commission but you choice to publicise it and in the process defame my clients.

Similarly, when you came before this Commission. You did not come with facts. You came with questions. Similarly, you could have written to this Commission to say: These are my questions. These are my areas I suggest the Commission should investigate but instead you came here to defame my clients.

MR BANTUBONKE HOLOMISA: Well, unfortunately for your information. I have forwarded my evidence beforehand and the decision was taken by the Commission to come and testify here. So, that is why I came.

MR DANIEL BURGER: You were not subpoenaed to come and testify. You came freely.

MR BANTUBONKE HOLOMISA: Voluntarily.

MR DANIEL BURGER: Yes.

MR BANTUBONKE HOLOMISA: Yes.

MR DANIEL BURGER: Is it not your real agenda, is to boost your political agenda at the expense of the dignity and reputation of my clients?

MR BANTUBONKE HOLOMISA: Well, unfortunately I am a public

representative. And also, I have got a direct interest in the management of the pension funds in this country. So, I am not doing it for self-promotion or whatever or an agenda. So, I take a strong exception in what you are saying.

MR DANIEL BURGER: You have a strong interest in the management of the pension funds. Is that what you said?

MR BANTUBONKE HOLOMISA: Yes.

MR DANIEL BURGER: You are talking about the GEPF, the Government Employee's Pension Fund?

MR BANTUBONKE HOLOMISA: H'm.

MR DANIEL BURGER: All right. We will get there. Let us have a quick look at the letter you sent to the president. If you turn to the large bundle. That is the urgent application bundle.

CHAIRPERSON: Can we give them exhibit numbers? Is it necessary or is it easy to access them?

MR DANIEL BURGER: Can we..?

CHAIRPERSON: I am asking you.

MR DANIEL BURGER: I am sorry, Chair.

CHAIRPERSON: Can we give them exhibit numbers?

MR DANIEL BURGER: Yes, I think the urgent application should be Exhibit 1 and the transcript, Exhibit 2.

CHAIRPERSON: So, you are now referring to Exhibit 1?

MR DANIEL BURGER: I am referring to Exhibit 1. When I say the transcript - I mean the transcript bundle which includes the statements of Mr Holomisa. So, I am now referring to Exhibit 1. Yes.

MR EMMANUEL LEDIGA: What page is that?

MR DANIEL BURGER: Starting at page 48 but just to put in context. Mr Holomisa, you will recall there is a founding affidavit which starts at page 6.

MR BANTUBONKE HOLOMISA: H'm. Page 6.

MS GILL MARCUS: I think it will help if you refer to the page numbers as well.

MR DANIEL BURGER: Yes, I am referring...[intervenes]

MS GILL MARCUS: You are referring to page 48 now of that bundle.

MR DANIEL BURGER: Yes. I was just putting it in context for the witness. This is a founding affidavit which is dated the 2nd July 2018. That is at page 41 and then I was referring the witness to page 48 which is the letter. This is the letter that you sent to the president and publicised on your website and Twitter. Is it correct?

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: Where you said: Unmasking Harith and Lebashe's alleged fleecing of the Public Investment Corporation.

MR BANTUBONKE HOLOMISA: Yes, sir.

MR DANIEL BURGER: Now, I am not going to read everything because the letter is been dealt with in another forum.

MR BANTUBONKE HOLOMISA: Thank you for acknowledging it.

MR DANIEL BURGER: But what I do want to refer you to after you... You write lots of things. If you go to page 51, paragraph 5 after you set out your letter. In paragraph 5 you say:

“The above reads like a spy novel with incomprehensible twists and turns with only clues as to the real nature of the relationship between these companies and Messrs Moloketi

and Wheatley. From the above information one can however see that there is a complicated system at work to apparently hide that the PIC is being fleeced at an astonishing pace...”

That was your conclusion. Correct?

MR BANTUBONKE HOLOMISA: Correct.

MR DANIEL BURGER: Then you say in paragraph 6:

“There are several pertinent points to be made and questions to be answered, Mr President. They are, but not limited to...”

And then you set them out and as I read them, I want you to think back to the questions that you posed for this Commission when you testified and see the similarity between what you say here and what you have said before this Commission.

You say Howas (?) is 6.1. How was Harith formed? Using PIC monies? And for what reason was it allowed or predestined that Mr Mahloele should automatically move from the PIC Corporate Finance and Isibaya Fund to Harith CEO? It does seem like a cushy arrangement. Do you recall that this answer was – that the answer to this was given in the court papers?

MR BANTU HOLOMISA: Well, I have to check on that.

MR DANIEL BURGER: Alright. We’ll get there.

MR BANTU HOLOMISA: But it doesn’t make any difference anyway, I still say.

MR DANIEL BURGER: Why doesn’t it make any difference? If you’re asking... If you are an honest broker, as you claim to be, and all you are doing is asking questions to expose corruption if you get an answer from the person that you are accusing of corruption isn’t that an

important piece of evidence to place before the commission?

MR BANTU HOLOMISA: That's why the president has reacted by appointing this commission of inquiry which has got the powers to verify those questions and allegations, so I don't know what you are trying to get at here.

MR DANIEL BURGER: Mr Holomisa, do you not understand my question?

MR BANTU HOLOMISA: Maybe I didn't.

MR DANIEL BURGER: It seems so.

MR BANTU HOLOMISA: Simply it.

MR DANIEL BURGER: You pose questions here, in the letter to the president.

MR BANTU HOLOMISA: Yes.

MR DANIEL BURGER: You get given certain answers in a court application.

MR BANTU HOLOMISA: Not... No. That's... That was your route. I'm saying the president has appointed the inquiry. That was your client's route to go to court and I complied, I responded.

MR DANIEL BURGER: Okay, let me move on. I see you're not understanding my question.

MR BANTU HOLOMISA: Thank you.

MR DANIEL BURGER: In 6.2 you say:

"At face value there seems to be a concerted effort
to..."

CHAIRPERSON: I'm sorry, Mr... Is it MR DANIEL BURGER?

MR DANIEL BURGER: Yes. Yes, Judge.

CHAIRPERSON: Ja, is...? Wouldn't it be fair to refer to the answer if you say there is an answer?

MR DANIEL BURGER: Yes.

CHAIRPERSON: Are you going to do that?

MR DANIEL BURGER: I am certainly going to do that, yes.

CHAIRPERSON: Thank you.

MR DANIEL BURGER: Yes.

CHAIRPERSON: Okay.

MR DANIEL BURGER: Chair, in fairness to the witness and to the commission let me indicate that I will certainly be going through the formation – I will be dealing with the PAIDF1 and 2, Harith FM, Harith GP, Lebashe and the Capitec transactions, that's all that I'm going to be dealing with.

MS GILL MARCUS: Just if we could ask you for a sense of a picture and clarity, if you are able to do it? And if you can't do it now perhaps into – you know, before this – before we'd taken that – before – I mean in due course, if you can, provide us with an organogram of the entirety of the structures that we are talking about, whether it is the individuals, Lebashe, Harith, any other corporates that are related to them, so that we've got a picture of what that – those – that conglomerate looks like and where there are cross-directorships and where the PIC has invested money? So whether it's the PAIDF or anything and what – who's where in that so that we've got a picture that we can look at.

MR DANIEL BURGER: Yes, Commissioner, we can do that, but I hope by the end of the cross-examination that picture will also be a lot clearer than it is at the moment.

MS GILL MARCUS: But I would like it in front of me as a diagram.

MR DANIEL BURGER: Yes. We ... (intervention)

MS GILL MARCUS: With all the related parties, investments, where the PIC has been, so that we can have a picture, at a glance, of exactly what this looks like.

MR DANIEL BURGER: Well, Commissioner, we can't give you everywhere where the PIC has been.

MS GILL MARCUS: Where you're aware the PIC has been.

MR DANIEL BURGER: Because we've interacted with the PIC. But I understand what it is that you want, yes.

MS GILL MARCUS: If you can, in due course. Thank you very much.

MR DANIEL BURGER: Yes. Let me not belabour the point, but I ask you, Mr Holomisa, to read these questions to yourself, and the point that I'm making to the commission when they read these questions, you will see the mirror image between these questions and the questions that you asked when you last gave evidence.

MR BANTU HOLOMISA: That's fine, sir, but you must know that since 19 – since 2016 I have been following up all these nauseating exposes in the media and also did a little bit of research and even after we went to court more people came to me and say these are the trends, and obviously the questions I've asked then will not be that different from the other questions I framed, but it has got the same meaning. Conflict of interest, how did it come that the former PIC workers went outside PIC and established this network of companies using PIC funds? And I'm interested. When you start painting a picture to tell us what is PAIDF fees and what – where did you get involved... Because I've got

nice questions lined up for you and your clients.

MR DANIEL BURGER: That's good, Mr Holomisa.

CHAIRPERSON: I'm not sure, Mr Holomisa, that you will get an opportunity to ask counsel those questions.

MR DANIEL BURGER: Let's continue with your questions on page 51 of EXHIBIT 1. I'm jumping not because the – I'm leaving out questions but just in the interests of time.

MR BANTU HOLOMISA: On a point of order, I thought the commissioners have said paint a picture of what we are here for.

MR DANIEL BURGER: Mr Holomisa, we're not in parliament. The commissioners have requested certain documents from us and we will get those documents to the commissioners.

MR BANTU HOLOMISA: Alright. (Indistinct)

MR DANIEL BURGER: Your task at the moment is just to answer my questions.

MR BANTU HOLOMISA: You are also sounding arrogant by saying I'm not in parliament. Can you withdraw that?

MR DANIEL BURGER: Points of order are raised in parliament, Mr Holomisa.

MR BANTU HOLOMISA: Can you withdraw that?

CHAIRPERSON: I think let's allow counsel to carry on and ask the questions that he wants.

MR DANIEL BURGER: Then you ask, in 6.3, you say Harith and Lebashe seem to be the same company. In 6.4 you say of interest is the nature of the relationship between Lebashe and the PIC. In 6.5 you say there is something seriously wrong where Lebashe is concerned.

“From our research little is known about Lebashe and it must be established for whom do they manage R8.5-billion worth of assets.”

So you thought at that time that Lebashe manages other people’s assets?

MR BANTU HOLOMISA: It’s true. And I’ve since realised that before Lebashe became Lebashe it was Petrotech.

MR DANIEL BURGER: Yes?

MR BANTU HOLOMISA: Yes, so.

MR DANIEL BURGER: You didn’t realise that. You were told that when we filed our answering papers.

MR BANTU HOLOMISA: Yes. H’m.

MR DANIEL BURGER: 6.6 you say:

“Are companies with seemingly legitimate businesses not front companies for a select group of super-rich people to siphon money from the PIC?”

You’re referring there to Harith and Lebashe?

MR BANTU HOLOMISA: Yes, sir.

MR DANIEL BURGER: In 6.7 you ask about whether the PIC corporate machinery had done a due diligence. In 6.8 you say:

Is there any truth in that the seemingly 100% black-owned companies where at least one or more of the gentlemen are involved are window dressing for white companies to access funds from the PIC by playing the BEE card?”

That’s still a question that bothers you?

MR BANTU HOLOMISA: It is still a question.

MR DANIEL BURGER: And then over the page, in paragraph 7, you say:

“Mr President,

Instead of being a giant machinery that creates wealth opportunities for South Africans it is clear that individuals such as Messrs Mahloele, Matjila, Moleketi and Wheatley are at least double- or triple-dipping in the PIC’s funds. In fact, one shudders to consider how many conduits they have at their disposal to sap PIC funds.”

That’s still your view, is it?

MR BANTU HOLOMISA: That’s what I said and I still stand by what I said.

MR DANIEL BURGER: Despite what has been told to you in the court papers?

MR BANTU HOLOMISA: That is the version of your clients. I am happy now that we have an independent institution which is going to investigate these questions. So don’t continue to refer me to what you answered in court. Here is an institution which has got better tools, well equipped than the court.

CHAIRPERSON: But, Mr Holomisa, do you recall whether those questions were answered, whether it was in court or elsewhere?

MR BANTU HOLOMISA: Come again, sir?

CHAIRPERSON: Do you or don’t you recall whether those questions were answered, whether it was in court papers or elsewhere?

MR BANTU HOLOMISA: I think my legal counsel can attest to that. I think we did respond to the questions.

CHAIRPERSON: So the question seemed to me to be coming from you that counsel has just referred to. I am asking whether you can recall that those questions were answered in the court papers, as suggested by counsel.

MR BANTU HOLOMISA: I doubt very much, but let's check with my legal attorney – legal representative.

CHAIRPERSON: Fine.

MR DANIEL BURGER: Thank you, Chair. So now, coming to EXHIBIT 2, your – the transcript of your evidence, page 23, you say at the bottom of the page, this is line 22:

“There also seem to be a network of selected individuals who have easy access to the PIC's resources, which needs to be untangled and revealed. It would also be advisable for the commission to be proactive and investigate the unlisted transactions where it is necessary to obtain a full board permission. In other words, up to less than R2-billion rand transaction can be approved without consulting a board.”

CHAIRPERSON: Are you referring to page 23 of EXHIBIT 2?

MR DANIEL BURGER: 23 at the bottom.

CHAIRPERSON: At the bottom?

MR DANIEL BURGER: Yes. EXHIBIT 2.

CHAIRPERSON: Where it says 'there also seem to be a network'?

MR DANIEL BURGER: Yes. Yes. That is it. So you said:

“So it will behove the commission to demand perhaps a printout of all these unlisted transactions for the period under review in order to satisfy itself that these transactions were above board.”

Do you know that there has been a printout of unlisted transactions created by the PIC?

MR BANTU HOLOMISA: Yes, I think there is. I’ve got a copy if you want.

MR DANIEL BURGER: So why do you ask the commission to get a list of the transactions, unlisted transactions of the PIC, when you already have it? Why don’t you just say here is the list and give it to the commission?

MR BANTU HOLOMISA: I’ve since shared that list with them.

MR DANIEL BURGER: Since you testified?

MR BANTU HOLOMISA: But remember that there has been a clarion call by many in this country to the effect that the unlisted transactions are the ones which people are worried about, as to whether these people, there has been a due diligence before those billions were given to them and whether those billions are being serviced. So it is in the public domain. It is in the interests of the public that those transactions, unlisted transactions, the commission will have to have finding on them when they conclude this inquiry.

MR DANIEL BURGER: So you don’t know that there is anything wrong in any particular transaction. You just say the commission must investigate all the unlisted transactions to see if perhaps there is

something wrong. Is that your request?

MR BANTU HOLOMISA: For instance, your clients' claim to have serviced an amount of – a transaction of about R700-and-something-million ... (intervention)

MR DANIEL BURGER: 720-million.

MR BANTU HOLOMISA: Yes, but when you look at the – this document you will find that up until 2018 it would appear that they did not pay the amount in question. The onus is on you and your clients to table the proof that you have paid that amount of money.

MR DANIEL BURGER: Where are you reading from, Mr Holomisa?

MR BANTU HOLOMISA: I'm reading from my documents.

MR DANIEL BURGER: Documents that you made available to the commission?

MR BANTU HOLOMISA: That's my... Yes, it's this document, listed transactions. Yes.

MR DANIEL BURGER: Can we have a copy of that document?

MR BANTU HOLOMISA: I will make a copy available to you and you will see how many companies which have taken billions and millions from these unlisted transactions, which, at least on this document, seem not to have been serviced. Maybe the commission should sought – or should seek from the PIC an updated version which might prove that indeed you had serviced your loan.

MR DANIEL BURGER: Are you saying that the R720-million has not been paid back?

MR BANTU HOLOMISA: According to this. That's why ... (intervention)

MR DANIEL BURGER: Is that what you are saying?

MR BANTU HOLOMISA: That's why I'm saying to you satisfy this commission by producing the proof. The PIC must also nod to that. Added to that, the PIC must upgrade this spreadsheet of unlisted transactions.

MR DANIEL BURGER: Mr Holomisa, you can't defame people like this, in the manner that you do. You can't come with allegations without putting the evidence before the commission and in giving the people who you defame an opportunity to investigate that information. It just doesn't work like that.

MR BANTU HOLOMISA: But you have just asked me whether I've given this information to the commission and I said yes.

MR DANIEL BURGER: No. I referred you to your evidence, where you said the commission should ask for a list. You never indicated in that evidence that you had a list, did you?

MR BANTU HOLOMISA: In this ... (intervention)

MR DANIEL BURGER: Did you?

MR BANTU HOLOMISA: In this instance you must remember that you are not alone, who is fingered in the PIC.

CHAIRPERSON: Mr ... (intervention)

MR BANTU HOLOMISA: There are many other transactions which needs to be investigated here.

CHAIRPERSON: I'm sure you're not – you don't mean that counsel is referred to in the PIC. You mean his clients, or one or two of his ... (intervention)

MR BANTU HOLOMISA: His clients, yes.

CHAIRPERSON: H'm.

MR DANIEL BURGER: Mr Holomisa, let me be specific.

CHAIRPERSON: But sorry. Sorry, Mr Burger. The documents that you are referring to, is it the file that was handed over to us by Mr Lubbe earlier?

MR BANTU HOLOMISA: Yes. Yes, sir.

MR DANIEL BURGER: No, it's not there, Mr Holomisa.

MR BANTU HOLOMISA: It's not there? Which document are you referring to?

MR DANIEL BURGER: You're referring to a document.

MR BANTU HOLOMISA: Ask Mr Lubbe. He will explain to you. You seem to be confused.

CHAIRPERSON: No, but is the document in the file?

MR BANTU HOLOMISA: Yes, it's in there.

CHAIRPERSON: And if so, which one is it?

MR BANTU HOLOMISA: It's in the file which I handed over to Mr Lubbe, the last ... (intervention)

MR EMMANUEL LEDIGA: It's Annex (*sic*) 9. I think it's Annexure 9.

MR BANTU HOLOMISA: Yes.

MR EMMANUEL LEDIGA: Which gives out all the transactions that ... (intervention)

MR BANTU HOLOMISA: Yes.

MR EMMANUEL LEDIGA: Ja. I don't know whether you got – whether ... (intervention)

MR DANIEL BURGER: I'm sorry, Commissioner, Annexure 9 to what document?

MR EMMANUEL LEDIGA: Of the bundle from General Holomisa. You didn't have that file?

MR DANIEL BURGER: I just hear from Mr Lubbe now that this was handed in this morning.

CHAIRPERSON: It was ... (intervention)

MR DANIEL BURGER: We certainly haven't had sight of this file at all.

CHAIRPERSON: It was made available to us this morning. Would you like some time to have a look at it?

MR DANIEL BURGER: We're going to have to have some time, yes, Commissioner.

CHAIRPERSON: Yes. Yes. Now, or a little later?

MR DANIEL BURGER: We only have an hour left, so perhaps we can consider this file when we break rather than waste time with the cross-examination now.

CHAIRPERSON: Fine.

MR DANIEL BURGER: Mr Holomisa, we're still on page 24. This is EXHIBIT 2.

MR BANTU HOLOMISA: Yes. Go ahead.

MR DANIEL BURGER: Round about line 19 you say – or it's line 17:

“Why do we have the same persons, companies...”

MR BANTU HOLOMISA: Page 24?

MR DANIEL BURGER: Page 24, line 17. The transcript, EXHIBIT 2.

MR BANTU HOLOMISA: But where is this?

CHAIRPERSON: What line are you?

MR DANIEL BURGER: Line 17.

CHAIRPERSON: Oh, okay.

MR BANTU HOLOMISA: Okay, go ahead, sir.

MR DANIEL BURGER: “Why do we have the same persons, companies

being empowered continuously, as you will see in the documents I have handed over? Could it be that there is a cartel of PIC beneficiaries?”

And a bit further down you say:

“It appears to be a sophisticated capture of the PIC involving advisors, BEE firms and asset managers.”

And when you talk about ‘BEE firms and asset managers’ you’re talking about Lebashe and the two Harith companies. Is that correct?

MR BANTU HOLOMISA: Including others as well.

MR DANIEL BURGER: I am not interested in other companies, Mr Holomisa. I am interested in my clients. That’s the reason I’m ... (intervention)

MR BANTU HOLOMISA: So you are part of – your clients are part of that cartel, alleged cartel.

MR DANIEL BURGER: Part of the cartel, alleged cartel?

MR BANTU HOLOMISA: But they are part of my presentation, if I may answer your question correctly.

MR DANIEL BURGER: You say:

“This could be the crux of PIC dealings and alleged corruption.”

MR BANTU HOLOMISA: H’m.

MR DANIEL BURGER: What do you mean ‘this could be the crux’?

MR BANTU HOLOMISA: Let me address you, sir. Maybe you will have a clearer picture.

CHAIRPERSON: I think it would be better to address me. Or us.

MR BANTU HOLOMISA: Sorry, sorry, sorry. Sorry, Chairperson. One of the most difficult tasks regarding dealing with the type of corruption that is alleged to have happened at the PIC is the sophisticated nature of the transactions. Corruption can come in two forms, legal and illegal corruption. Legal corruption occurs when the elite build a legal framework that protects corruption or manipulate existing legal framework without necessarily breaking the law. The task that is faced by this commission is to unravel some of the transactions that have been seemingly structured following all the rules but with corrupt intent. Findings on these – on those transactions could be difficult but it’s more – it’s important to examine them and make recommendations to minimise reoccurrence in future. In addition to pursuing justice where laws were explicitly broken the task is to find pre-emptive measures. I will come to your – to you now. The issues raised on Lebashe Investments and related entities, that does not necessarily points to illegality but raises questions of conflict of interest and appearance of easy access by the underlying beneficiaries of Lebashe to the PIC. The key players are former Minister – Deputy Minister of Finance and PIC chairperson, Mr Jabu Moleketi, and Tshepo Mahloele, former PIC Head of Investments, and Warren Wheatley. The key players participate in various entities that benefit from the access to the PIC. Different entities, same players. The alleged transactions from which

the group benefited are as follows: One, Petrotech, whose name later changed to Lebashe.

MR DANIEL BURGER: No, Mr Holomisa, I'm sorry, I'm going to interrupt you. I've let you go on and on. You're obviously reading from some prepared speech. Please listen to my question and rather answer only my question, otherwise we're going to be here forever.

UNKNOWN SPEAKER: No, Mr Chairman, that's not fair. This is precisely the kind of question that warranted a contextual explanation from the witness. If my learned friend is impatient, well then, tough, but the witness is entitled to give an exposition.

MR DANIEL BURGER: My question to you is: On what basis...? You can't have it both ways, Mr Holomisa. You can't say on the one hand that you are now drawing conclusions of corruption on the part of my clients and on the other hand say 'this could be the crux of a cartel'. You can't say 'they were not acting illegally' and then at the same time say 'they are members of a cartel'.

MR BANTU HOLOMISA: No.

UNKNOWN SPEAKER: I'm sorry, Mr Burger, I don't mean to address you in a dialogue. You asked my client 'what do you mean this could be the crux of the cartel?' My client is answering the question. You interrupt him.

MR DANIEL BURGER: My learned friend shouldn't address me because that's not how these things work. But my point remains, I don't – I'm not asking for an exposition, Chair.

MR BANTU HOLOMISA: Chair, why don't you allow me to unpack this for you?

CHAIRPERSON: Can you ... (intervention)

MR BANTU HOLOMISA: So that we are in the same understanding.

CHAIRPERSON: Mr Holomisa, I suggested that you address me, or us here, rather than directly to the client – I mean to counsel and address us what you want to ask him.

MR BANTU HOLOMISA: Chairperson, I am saying to the legal representative of Lebashe and other companies, I am saying to them, he has asked me a question and I'm trying to explain why do I call this a cartel and I was still going down and trying to paint a picture for you and himself but he is interrupting me, so you may have to rule.

CHAIRPERSON: Can I just ask: What are you reading from? Are you reading from the record?

MR BANTU HOLOMISA: That's my prepared text. Those are my notes, sir.

CHAIRPERSON: Do we have a copy of that?

MR BANTU HOLOMISA: I can give... I can share a copy for you, but these are my prepared notes.

MR EMMANUEL LEDIGA: Is that quite long? Like how many...? Like is it a long note?

MR BANTU HOLOMISA: No, it's not long at all. But I was coming nicely to this cosy relationship between PIC and these companies.

CHAIRPERSON: Are you able to get there quicker?

MR BANTU HOLOMISA: I will try. Can I go ahead, sir?

CHAIRPERSON: Carry on.

MR BANTU HOLOMISA: The alleged transactions from which the group benefited are as follows: Petrotech, whose name later changed

to Lebashe, bought Capitec shares from the PIC and Carol Lagoon (?). The issues to be investigated are as follows: How was Petrotech chosen to buy Capitec shares from the PIC? The capital shares were housed by the PIC at the time. How much initial funding did the PIC provide? We are aware that the PIC is no longer... Rather, change of names always raises suspicions, as we have seen ... (intervention)

CHAIRPERSON: I'm not sure you're going to get there quicker.

MR BANTU HOLOMISA: I'm getting there, sir.

MR DANIEL BURGER: Can I suggest, Mr Holomisa, can I suggest that you save your prepared text for the end and after I've asked you questions if there is something that you still feel you need to say you can read from your prepared text.

MR BANTU HOLOMISA: No. Chairperson, you gave me an opportunity to present and unpack this for you. I'm doing that. Please can he stop interrupting me?

CHAIRPERSON: Yes, but I also suggested that you get to the answer to the question quicker.

MR BANTU HOLOMISA: Okay. Well, if you look at Aluwani Capital, it has been allocated over R10-billion worth of assets by the PIC. Who manages this? You have Warren Wheatley, you have Jabu Moleketi, as directors. But to go back to the answer you seem to be interested in more is to say, yes, I confirm that this this proximity of your clients to PIC is worrisome.

MR DANIEL BURGER: Yes, you describe it as a cartel.

MR BANTU HOLOMISA: Yes, I stand by that. That, the commission will rule on that one.

MR DANIEL BURGER: Your allegation is that Mr Wheatley, Mr Mahloele and Mr Moleketi are in a cartel with the PIC.

MR BANTU HOLOMISA: They are having an unfettered approach. Rather, they have an easy access to secure funding. But you didn't want me to go down with the transactions.

MR DANIEL BURGER: Alright, let's move on.

MR BANTU HOLOMISA: Thank you.

MR DANIEL BURGER: Would you turn to page 28 please of Exhibit 2?

MR BANTU HOLOMISA: 28.

MR DANIEL BURGER: You there, middle of the page 28. You say one other transaction that needs careful scrutiny is the PAN African Infrastructure Development Fund where these monies are invested that is the pension monies of the workers. Are you there?

MR BANTU HOLOMISA: Yes.

MR DANIEL BURGER: Right. We refer to the PAN African Infrastructure Development Fund as the PAIDF okay?

MR BANTU HOLOMISA: Yes.

MR DANIEL BURGER: I want to refer you to the – keep the transcript open in Exhibit 2 and then go to Exhibit 1, page 288. Now you will see there this is the replying affidavit in the urgent application and you will see there in paragraph 7 we deal with the year 2004. In fact one can go back a page, to page 287 where at the bottom of page 287 you will see the order of events. The Harith Companies is the heading and then we have the year 2003.

In 6.1, Mahloele was employed as the head of corporate finance and the Isibaya Fund at the PIC. Do you know or are you

aware now that Mr Mahloele was employed at the PIC from 2003 to 2006.

MR BANTU HOLOMISA: I know that Mahloele was an employee of PIC.

COMMISSIONER: You do not know from when to when?

MR BANTU HOLOMISA: Yes no, no I'll have to check the documents on that.

MR DANIEL BURGER: Well you'll see there the page before as I said that was the year 2003 and then it says Mahloele was employed and then in 6.2 it says Mahloele remained in that position until March 2006. These are facts that were given to you during the urgent application and you are aware of these facts?

MR BANTU HOLOMISA: It's fine, what's your question?

MR DANIEL BURGER: Do you know that Mr Jabu Moleketi was the MEC for finance and economic affairs in the province in Gauteng in 1994. Do you know that?

MR BANTU HOLOMISA: Yes I'm aware.

MR DANIEL BURGER: And do you know that in 2004 Mr Moleketi was appointed the Deputy Minister of Finance?

MR BANTU HOLOMISA: Up until 2008, I'm aware.

MR DANIEL BURGER: You're aware of all of that yes and that's what we say there in paragraph 7.1. That Mr Moleketi was appointed Deputy Minister of Finance by President Mbeki and in that capacity he became the chairperson of the PIC. It was an *ex officio* appointment.

MR BANTU HOLOMISA: I know that. Are you also aware that has been the tradition for many years that the Deputy Minister of Finance becomes the chairperson of the PIC, *ex officio*?

MR BANTU HOLOMISA: I'm aware.

MR DANIEL BURGER: And then in 7.2 you were told towards the end of 2004 President Mbeki articulated a vision of the private sector playing a key role together with government by investing in the future development of infrastructure on the African continent. Are you aware of that?

MR BANTU HOLOMISA: Yes I'm aware about the NEPAT program he announced but what's your point exactly related to the facts of the pensioners?

MR DANIEL BURGER: Yes I'm coming there.

MR BANTU HOLOMISA: Okay.

MR DANIEL BURGER: How long have you been in Parliament Mr Holomisa?

MR BANTU HOLOMISA: 1994 and then 1996 as you are aware – probably aware I was shown the door by the ANC. Then I came back 1999 until to date.

MR DANIEL BURGER: So you were in Parliament when President Mbeki – in fact you were a member of the ANC when President Mbeki articulated his vision in 2004?

MR BANTU HOLOMISA: No Holomisa left the ANC 1996.

MR DANIEL BURGER: I beg your pardon wrong decade. Are you not aware of President Mbeki's vision?

MR BANTU HOLOMISA: I'm aware. What has got to do with the pension fund?

MR DANIEL BURGER: You don't know what the PAIDF has to do with the pension funds. You don't know what the PAIDF has to do with the

GEPF?

MR BANTU HOLOMISA: I know about that but I'm talking about the vision of Mbeki. By stating a vision he didn't imply that the pension funds of the workers of this country must be used for that.

MR DANIEL BURGER: Do you know that the GEPF has its own independent board of trustees?

MR BANTU HOLOMISA: I'm aware.

MR DANIEL BURGER: And that it's the board of trustees that makes the investment decisions of the GEPF, are you aware of that?

MR BANTU HOLOMISA: I'm aware.

MR DANIEL BURGER: Then if we move on ...[intervenes].

COMMISSIONER: Is that factually correct that GEPF – isn't it that the GEPF has given a mandate to the PIC to deal with its funds?

MR DANIEL BURGER: That is correct but in certain instances the board – the board of trustees of the GEPF - my instructions are that the board of the GEPF makes its own investment decisions. And particularly in relation to the two investments in PAIDF 1 and PAIDF 2 it was the board of trustees chaired by Mr Kuscus – Martin – I'm not sure if that's the correct pronunciation.

MS GILL MARCUS: It is the correct pronunciation.

MR DANIEL BURGER: Mr Martin Kuscus who is the – he is also the chair or he was at the time the chairperson of the GEPF and also chairperson of the PAIDF ...[indistinct] and I think he was also the chairperson of the PAIDF Facilitation Trust at the time.

COMMISSIONER: Thank you.

MS GILL MARCUS: Can I just get a bit of clarity on that.

MR DANIEL BURGER: Yes.

MS GILL MARCUS: Are you saying that the GEPF directly took the decisions that invested in dollar terms around \$600-million in those because that's the question that I would want to know as well just for our own information about that – in the PAIDF which was either 600-million and I have another figure of 1.2-billion and those decisions – are those the decisions you talking about specifically taken by the GEPF directly which related to the ...[indistinct] windpower entity – the main one which I don't know what that means. Or the Hennie Conon Bridge, that's \$1.2-billion, is that the correct reference?

MR DANIEL BURGER: Madam Commissioner yes the PAIDF – there were two funds set up. There is PAIDF 1 and PAIDF 2. The first fund had the sum of \$630-million invested in it. The second fund at an amount of 438 – 435 I beg your pardon – million dollars invested into it. In relation to the first fund – the 630-million fund the GEPF invested \$250-million. 250-million out of 630-million was invested by GEPF. In relation to the second fund – the 435-million the GEPF invested an amount of \$350-million and both of those decisions to invest were taken by the board of trustees of the GEPF.

MS GILL MARCUS: Do we know who the other investors were in that?

MR DANIEL BURGER: Yes we do.

MS GILL MARCUS: Can you give us that as well?

MR DANIEL BURGER: Yes we do.

MR EMMANUEL LEDIGA: Just to add is that things could be different now but it's likely that that decision actually it was taken by the GEPF because things were different then versus now.

MR DANIEL BURGER: Yes Mr Commissioner my instructions are that as a fact and my clients will give evidence as you know on Monday as soon as we finish the cross-examination. But as a fact those two decision were taken by the board of trustees of the GEPF.

MS GILL MARCUS: Okay. And just for general perhaps Advocate if we could get how those funds have been performing as well as the rate of return in dollar terms because they were dollar investments as distinct from rand terms.

ADV JANNIE LUBBE SC: It is noted Mr Commissioner through you and it will be followed up.

MR DANIEL BURGER: Mr Holomisa?

MR BANTU HOLOMISA: Yes sir.

MR DANIEL BURGER: Are you aware of those facts as I have told them to the Commission that the decisions to invest in PAIDF 1 in an amount of \$250-million and in PAIDF 2 an amount of \$350-million, those decisions were taken by the board of trustees of the GEPF?

MR BANTU HOLOMISA: The onus is on you, through you Chairperson, to provide the proof or table those investments for the Commission to scrutinize it. But I'm aware that Harith among other thing was established to manage the PAIDF 1 and later 2. So there is therefore a relationship between the PAIDF as well as PIC. So what you would have to do when you testify on Monday is to make – give clarity and hopefully the PIC itself will tell the Commission on how the relationship managed between the PAIDF as well as PIC.

MR DANIEL BURGER: Mr Holomisa it would really help to get this cross-examination moving if you listened to my question and simply

answered my question instead of advising my clients on what they should testify about. The question is what do you know about those loan – those investments? Because you have told the Commission that you very interested in the GEPF.

MR BANTU HOLOMISA: Oh so you are reframing the question.

MR DANIEL BURGER: No my question is the same. My question is are you aware that those decisions were to invest in PAIDF 1 and PAIDF 2 were taken by the board of trustees of the GEPF. You're either aware or you not aware.

MR BANTU HOLOMISA: I'm not aware that it was taken by GEPF but I'm aware that \$630-million was invested in PAIDF 1 by 2009. Considering that it is a 15 year fund and we are now at 10 year mark it will be interesting as to how much is US dollar 630-million worth in dollar terms. What you read from the statements – annual reports is that you publish this so-called progress of these investments in rands but this was a dollar transaction.

COMMISSIONER: But your answer is it yes you know ...[intervenes].

MR BANTU HOLOMISA: Yes.

COMMISSIONER: ... it was the board of the GEPF that took that decision to invest, that's your answer.

MR BANTU HOLOMISA: I would say yes because that money would have not left simple logic the kitty of the pension fund without the board's approval. All what we need is minutes, that's all to verify that.

MR DANIEL BURGER: Do you know how much of the \$630-million was invested by the GEPF in PAIDF 1?

MR BANTU HOLOMISA: No I don't know I'll have to check my notes on

that. I can submit to you later in writing.

MR DANIEL BURGER: But if you're so concerned about the fleecing of pension monies that belonged to the workers why have you not investigated just that small aspect of how much money was in fact invested by the GEPF in PAIDF 1?

MR BANTU HOLOMISA: It was for that reason that I asked the Commission, 1 to identify where are these assets, where is this money invested in the continent if it is in the continent or outside the country. So I'm waiting for the Commission to respond to that.

MR DANIEL BURGER: If you had read the replying affidavit you would have found out exactly how much money ...[intervenes].

MR BANTU HOLOMISA: Which replying affidavit?

MR DANIEL BURGER: ... was invested. Well if you don't know what replying affidavit I'm referring to, I'll move on.

MR BANTU HOLOMISA: Thank you.

MR DANIEL BURGER: Page 288 Mr Holomisa at the bottom. You were told that at paragraph 8.2, in April – this is now 2006 and in line with the vision of President Mbeki Mahloele was tasked by the PIC to set up the PAN African Infrastructure Development Fund in order to attract private sector investment in the PAIDF. The fund had to be and had to be seen to be entirely independent of government control. Do you know that that's an important fact that the PAIDF had to be independent of government control?

MR BANTU HOLOMISA: Yes.

MR DANIEL BURGER: The PIC Executive Committee following internal procedures loaned to the PAIDF Facilitation Trust not to the second

applicant as erroneously stated in paragraph 16.11 of the finding affidavit – cede capital in the amount of R25-million which was also approved by National Treasury.

MR BANTU HOLOMISA: I'm aware about that and you also paid it back according to your reports.

MR DANIEL BURGER: Actually I can tell you that the amount originally loaned wasn't 25-million. That's more along the lines of how much was eventually used with costs. But the amount originally loaned was R17 460 929,00.

MR BANTU HOLOMISA: Yes.

MR DANIEL BURGER: And the loan as you told at page 288 at the bottom is between the PIC and the PAN African Infrastructure Fund Facilitation Trust. Are you aware of that?

MR BANTU HOLOMISA: Yes.

MR DANIEL BURGER: So you keep saying in all your questions and evidence – you keep saying that the cede capital funding – we refer to the 25-million it doesn't matter. You keep saying that that was given to Harith but that's not correct is it?

MR BANTU HOLOMISA: Harith was - according to my own statements earlier I said Harith was established by PIC - ceded 100% by PIC. You have just confirmed that you – the PIC appointed Mr Mahloele to head the Harith.

MR DANIEL BURGER: No.

MR BANTU HOLOMISA: You didn't say so?

MR DANIEL BURGER: No.

MR BANTU HOLOMISA: Oh okay but anyway.

MR DANIEL BURGER: I said to you if you look at the bottom of 8.2.

MR BANTU HOLOMISA: Maybe I didn't hear you correctly.

MR DANIEL BURGER: Mr Mahloele resigned from his employment at the PIC. He was tasked by the PIC to set up the PAIDF ...[intervenes].

MR BANTU HOLOMISA: What's the difference?

COMMISSIONER: Can you wait for the question to be completed please Mr Holomisa?

MR BANTU HOLOMISA: What's the difference sir?

COMMISSIONER: No, no I'm saying can you wait for the question to be completed first.

MR BANTU HOLOMISA: Oh.

MR DANIEL BURGER: The PIC loaned – the PIC executive loaned to the PAIDF Facilitation Trust not to Harith Fund Managers, the cede capital of R25-million.

MR BANTU HOLOMISA: Well is a question of semantics really. You need to bring minutes of that so we check veracity of your allegations.

MR DANIEL BURGER: You don't believe that?

MR BANTU HOLOMISA: No, no, no I'm not disputing that but bring evidence and proof that – because if you read annual reports everything it says PIC established Harith or rather ceded Harith with 100% and that they appointed Mr Mahloele as CEO. But later on the shares of that Harith company ended up being 70% being divided amongst the directors namely Jabu Moleketi, Mahloele and Weedley and also a 2% not allocated. But the deeds office I'm sure they can help us when it comes to share certificates.

MR DANIEL BURGER: What was shared with Mr Moleketi, Mr Mahloele

and Mr Weedley? What did you say was shared 70% to them?

MR BANTU HOLOMISA: I said to you the PIC ceded Harith with 100% of the shares or whatever or the money. But later on the PIC ended up giving some of their shareholding to some directors. The evidence will show that part of that was given to the former chairperson of the PIC, Jabu Moleketi, the CEO of Harith 7% - I mean 30%, Jabu Moleketi 7%. I think Weedly 2%. If you want proof I'll give you after this.

COMMISSIONER: Is that contained in the report that you refer to?

MR BANTU HOLOMISA: Yes in my document – in my report which I submitted it's here. I'll show you. You yourself if you go to page 289. You said in January 2007 Harith FM was set up by Mahloele to manage the PAIDF, what a contradiction. It's you.

MR DANIEL BURGER: Where is the contradiction?

MR BANTU HOLOMISA: You have been trying to ask questions as to what's going on but you knew that you said so in your court papers.

MR DANIEL BURGER: Where is the contradiction Mr Holomisa?

MR BANTU HOLOMISA: I'm not going to answer that one.

MR DANIEL BURGER: Okay.

MR BANTU HOLOMISA: Because you have been arguing differently.

MR DANIEL BURGER: I'm talking about 2006. You can see that on page 288.

MR BANTU HOLOMISA: So what's your point exactly? What's your point? Please empower this Commission?

COMMISSIONER: If you address yourself to us it will be much easier. What is counsel's point?

MR BANTU HOLOMISA: Yes.

COMMISSIONER: Rather than what is your point.

MR BANTU HOLOMISA: Thank you sir, I'm not used to this court proceedings.

MR DANIEL BURGER: My point Mr Holomisa is I'm demonstrating to you that if you had bothered to read the replying affidavit and had bothered to make that available to the Commission a lot of the speculation that you entered into the last time that you appeared before the Commission would have been cleared up. So now we know as a matter of fact and the evidence will support this, it's already there. Something you should have known. That the cede funding was paid by the PIC to the PAIDF Facilitation Trust. Mr Mahloele was employed by the PAIDF Facilitation Trust.

MR BANTU HOLOMISA: Sir I've answered your question and I've said please bring documentation to that effect. What else do you want me to say?

MR DANIEL BURGER: You'll see in paragraph 8.3 page 289, the purpose of the funding or the investment was to investigate the feasibility of the establishment of the fund. Those funds were provided – this is the 25-million by way of an arm's length loan which was repayable in full plus interest to the PIC. I've told you and you seem now to accept that that – that money has been paid back with interest.

MR BANTU HOLOMISA: Yes because that's what the annual report says. I've agreed with you on that. I even said 25-million was paid back. I don't know exactly what you want.

MR DANIEL BURGER: If you go to 8.4. Mr Moleketi as chair of the PIC did not sit on the PIC Executive Committee and was therefore not a

party to the decision to loan the 25-million.

MR BANTU HOLOMISA: How does that come because he was the chairperson of the PIC?

MR DANIEL BURGER: Yes this was a Management EXCO decision. He was not on that EXCO, on that executive committee. He was not party to that decision.

MR BANTU HOLOMISA: Why did he withdrew – why did he withdraw? Did he excuse himself because he knew maybe there is something which could be ...[intervenes].

MR DANIEL BURGER: Are you saying that Mr Moleketi withdrew from this committee?

MR BANTU HOLOMISA: I'm asking a question.

MR DANIEL BURGER: Based on what?

MR BANTU HOLOMISA: On your question.

COMMISSIONER: No, no I don't want this direct addressing. I think counsel you can restate your question please? Mr Holomisa you understand?

MR DANIEL BURGER: Thank you Chairperson I shall. I'm putting to you that Mr Moleketi as chair of the PIC was not a member of the committee. I'm not talking about recusal. Was not a member of the committee that decided to enter into this loan agreement with the PAIDF Facilitation Trust?

COMMISSIONER: Do you have any knowledge of that Mr Holomisa?

MR BANTU HOLOMISA: I don't have any knowledge of that but in terms of practice is that these committees meet without the chairperson. One would have expected that such a transaction if it is

approved by that committee or recommended it would be tabled to the board where he sits.

MR DANIEL BURGER: So your evidence is somewhere, somehow Mr Moleketi must have known but you don't have anything direct do you?

MR BANTU HOLOMISA: That is an irrelevant question, I've answered your question.

MR DANIEL BURGER: And then in 8.5 you were told that the loan plus interest was repaid within two years of receipt?

MR BANTU HOLOMISA: Yes we know that it's in the public domain. But you are not answering – you are not getting to the point. Where are these assets? What are the returns? Why are you telling us that you are making progress but you've declared in rand in a dollar transaction? That is misleading.

COMMISSIONER: Are you able to respond to that question Mr Burger?

MR DANIEL BURGER: I'm not going to respond to questions Chair.

MR BANTU HOLOMISA: Okay. I'll keep on throwing these questions so that I'm empowering the Commission.

MR DANIEL BURGER: You do that.

MR BANTU HOLOMISA: Ja let's agree on that.

MR DANIEL BURGER: Alright then if you move on to the – to 2007 you'll see that from the time of the establishment of the PAIDF in 2006 until about July 2007 potential investors were sought and in some cases secured. As you pointed out in January 2007 Harith FM – that's Harith Fund Managers was set up by Mahloele to manage the PAIDF. Do you accept that a fund needs to have a management? A fund needs to be managed.

MR BANTU HOLOMISA: Yes.

MR DANIEL BURGER: And the managers are not the investors. Sometimes the investors will have an interest in the managers but the managing company does not itself invest in the fund. You accept that?

MR BANTU HOLOMISA: I've noted that.

MR DANIEL BURGER: You think it's otherwise?

MR BANTU HOLOMISA: I've noted – underlined word noted.

MR DANIEL BURGER: Now the shareholding of Harith FM that is depicted here in 9.3 with the PIC having a 46% shareholding, Old Mutual Life Assurance 12, ABSA Trading and Investment 12 and the Harith Share Incentive Scheme Trust, HSIST, 30%. The trust consists of employees of Harith FM who then have an interest in the company.

MR BANTU HOLOMISA: Well, I'm happy that you are saying there was a trust where the employees of the FM were involved. I hope that you will provide the proof of the division of those shares for those employees of the FM.

MR DANIEL BURGER: Do you know how it came about that the PIC ended up with 46%?

MR BANTU HOLOMISA: I'm curious to know, please explain to us.

MR DANIEL BURGER: The fund – the PIC initially claimed a 100% of Harith FM.

MR BANTU HOLOMISA: H'm?

MR DANIEL BURGER: And then there was a pushback by the investors because you'll recall that I've put to you earlier that it was important and from the investors point of view it was important that the fund and the management of the fund not be subject to government control or

government-related control. You recall that?

MR BANTU HOLOMISA: I hear you.

MR DANIEL BURGER: And in the process of this pushback there was a negotiation and ultimately – and the documents are there and they will be placed before the Commission, ultimately the PIC sold its shares, gave up its shares to the extent of bringing its shareholding down from a 100 to 46%.

MR BANTU HOLOMISA: Okay.

MR DANIEL BURGER: Are you aware of that?

MR BANTU HOLOMISA: I'm aware but sold it to whom? Just explain to us.

MR DANIEL BURGER: Well, the investors, the PIC was paid and I'll give you the figure in a moment.

MR BANTU HOLOMISA: Okay.

MR DANIEL BURGER: Was paid millions of rand.

MR BANTU HOLOMISA: Right.

MR DANIEL BURGER: In order for its shareholding to come below 50%.

MR BANTU HOLOMISA: What's - through you, sir, what percentage was reserved for the employees and how was it broken down?

MR DANIEL BURGER: I just told you, 30%.

MR BANTU HOLOMISA: 30%?

MR DANIEL BURGER: Yes.

MR BANTU HOLOMISA: And then can you break it down – is it true that, through you, Chairperson, that the 30% was given part of those people was – we had Jabu, Moleketi, Mahloele(?), were they

beneficiaries of that and if so, how was it structured? Did you involve other people to buy those shares or was it an in-house arrangement?

MR DANIEL BURGER: I can tell you that Mr Mahloele was an employee and therefore he would have shared in the HSIST share.

MR BANTU HOLOMISA: Therefore we would like through you, Chair, that we get a deed certificate which will clarify the division of those shares, please.

MR DANIEL BURGER: So let me continue, Mr Holomisa.

CHAIRPERSON: Can – my colleague just wants to ask a question quickly.

MR DANIEL BURGER: Sorry.

MR EMMANUEL LEDIGA: Just a question for clarification. What was the purchase price for that transaction?

MR DANIEL BURGER: My understanding, Commissioner, is that there was a dividend declaration by the company in the sum of 70 million.

MR EMMANUEL LEDIGA: 17?

MR DANIEL BURGER: No, 70. It's R70 050 772.

MR EMMANUEL LEDIGA: The portion for the 100% of the business or for the portion of the transaction?

MR DANIEL BURGER: For the 54. The evidence will come on Monday that the PIC had control of this company and therefore it took a 100% of the company and because of the negotiations the PIC reduced its shareholding from 100% to below 50% and in return for that the PIC was paid a dividend of over R70 million.

MR EMMANUEL LEDIGA: Alright, thanks.

MR DANIEL BURGER: And I can also tell you, Mr Holomisa, that the

PIC – that dividend was paid in June of 2009. In October 2012 the PIC got a further dividend of 16 100 000 and that distribution was as a result of moving the management agreement – you know, at a point in time the management agreement of the PAIDF1 was subcontracted from Harith FM to Harith General Partners, Harith GP.

MR BANTU HOLOMISA: Through you, Chair, exactly why did this fund management decided to subcontract its work to this other institution you've just mentioned? And where it is confusing, when you look at the directors of the fund and the directors of the same other company. You find the same names.

MR DANIEL BURGER: The directors of the fund?

MR BANTU HOLOMISA: Yes, I will ...[intervenens]

MR DANIEL BURGER: The director of the PAIDF?

MR BANTU HOLOMISA: No, no, no, no. I'm saying you said there was a shift, there was a – what's this...?

MR DANIEL BURGER: A subcontract of the management.

MR BANTU HOLOMISA: Yes, the management, the fund was authorised by PIC to manage that fund of – then they shifted and appointed a new company, what do they call it, it's...

MR DANIEL BURGER: Harith General Partners?

MR BANTU HOLOMISA: Yes, Harith General Partners, yes.

MR DANIEL BURGER: That's the one I'm telling you about.

MR BANTU HOLOMISA: Yes, Harith General Partners. So what confuses me, you'll find that the same directors appear on both companies. The question is, who pays for the fund managers and who pays for the general managers to do this transaction? Who bills who?

MR DANIEL BURGER: Mr Holomisa, I'm not following your question and I'm – you'll see it will all become apparent as I go through the affidavit. Just bear with me. What the point I want to make to you is this, that from 2009 to 2018 the PIC – let me go back. In relation to the facilitation, the seed money, the so-called 25 million which in fact was 17 million, that loan has been repaid in full. The total amount of the loan, I can tell the Commission, was 21 692 683.67, that was loan and expenses. The interest on that loan amounted to 952 556.82. So the loan plus expenses is 21 6...[intervenes]

MR BANTU HOLOMISA: I've got that.

MR DANIEL BURGER: Okay.

MR BANTU HOLOMISA: Give me the second figure.

MR DANIEL BURGER: The interest is 952 556.82. So the total amount paid to the PIC, in relation to the seed funding of the facilitation trust was 22 645 240.49. Over and above that, the payments to the PIC as a result of its shareholding the management company, there as the initial payment of the 70 million and there were further payments being dividend distributions. The total amount of all of those payments is R95 810 772. So when you come back to page 289, paragraph 8.6, you were told, Mr Holomisa, that the PIC in addition to enjoying a return of capital plus interest, that was the seed money plus the interest, received dividends – it says there in excess of 100 million but it should really be approximately 100 million. The actual figure is 95.89 million which the PIC has received as a result of its shareholding in Harith FM.

MR BANTU HOLOMISA: So what's your question?

MR DANIEL BURGER: No depletion of the funds of the PIC

whatsoever in relation to this transaction. Would you agree?

MR BANTU HOLOMISA: Fortunately you are still going to testify next week Monday. All what you are trying to say, I think you need to contextualise and bring proof. Everything you say here must be accompanied by documentation but let me go back to what I said earlier. You have this Harith General Partners and then you have the HFM, right? But what is strange, you will find that Theli Gabelana, Alwyn Wessels, Pani Tyalimpi are also appearing on their [indistinct] managers, both sides. So that's why I'm saying ...[intervenes]

MR DANIEL BURGER: Both sides meaning Harith FM and Harith GP?

MR BANTU HOLOMISA: Yes, yes.

MR DANIEL BURGER: Yes, I'll get there, if you'll let me.

MR BANTU HOLOMISA: But you agree that there is such a duplication, what does it mean to you?

MR DANIEL BURGER: I'll get there, Mr Holomisa. Let's deal with this ...[intervenes]

MR BANTU HOLOMISA: I'm looking forward to it.

CHAIRPERSON: Alright, don't answer each other. I think it's twelve, it's twelve now and we were aiming at breaking at twelve so that we can get to the airport, those of us who are leaving. So would this be a convenient time, just where you two are beginning to argue? Would this be a convenient to take the adjournment today?

MR DANIEL BURGER: I just want to get an answer to my question and then we can take the adjournment.

CHAIRPERSON: Can you just repeat that question?

MR DANIEL BURGER: Would you agree – thank you, Chair. Would

you agree, Mr Holomisa, that on this transaction the seed funding by the PIC of the PAIDF facilitation trust and on the evidence that I have given you, you have no contrary evidence. On this particular transaction there is no fleecing of the PIC whatsoever. In fact, the PIC has made a handsome profit of over R95 million in addition to the interest it earned on the seed funding. Would you agree with that?

MR BANTU HOLOMISA: I hope when we go and talk about Capitec transaction you will see how I mean by this fleecing business and other transactions.

MR DANIEL BURGER: I'm dealing with this transaction. I'll get to the other transactions. On this transaction there's no fleecing, in fact it's the opposite.

MR BANTU HOLOMISA: No, I cannot take your word on that, I said I need documentation and you keep on coming with this question.

MR DANIEL BURGER: But you've got no evidence to contradict what I've just said to you.

MR BANTU HOLOMISA: That's why I said the inquiry must be investigated, these allegations. What do you want?

ADV JANNIE LUBBE SC: Mr Commissioner, we've reached twelve o'clock.

CHAIRPERSON: Ja.

ADV JANNIE LUBBE SC: And before we adjourn can I make the following hopefully practical suggestion going forward? General Holomisa came to this Commission with a lot of questions. Rightly or wrong, he said there must be investigated and I want answers to that. I understand the position of my learned friend on this issue but

wouldn't it be more practical – and I'll discuss it with my colleagues after we adjourned, for his clients to come on Monday, testify, put the evidence before you with proof and it might be the end of all General Holomisa's questions. It might not be necessary to proceed with cross-examination because if the proof are there and he's got no counterproof it's the end of the story. That's just a practical suggestion.

CHAIRPERSON: I don't really want to hear argument on that part. I think I want to suggest that counsel get together, Adv Lubbe and yourselves, Mr Burger, and deal with that. I don't know if it could be possible, probably not, to set - you know, to set out questions that Mr Holomisa needs to answer. It would make things much easier but probably impracticable.

MR DANIEL BURGER: Chair, we requested permission from the Commission to cross-examine Mr Holomisa because, as the rules provide, he has implicated our clients in all sorts of manner of corruption. This Commission has ruled that we have a right to cross-examine Mr Holomisa. Our request is that we be allowed to complete the cross-examination of Mr Holomisa and I can assure the Commission that after Mr Holomisa has been cross-examined my three clients who have hearts in their bodies as opposed to the companies will come and testify before this Commission.

CHAIRPERSON: I think my colleague wants to make some comment.

MR EMMANUEL LEDIGA: Mr Burger, I'm just thinking that it might work better if we have a full complete picture, analyse the common cause issues and then if they are still sort of disagreements then you

can go into cross-examine on those issues and if he needs to cross-examine you too that can be done. Otherwise it's, you know, we don't have the full picture yet of these companies.

MR DANIEL BURGER: With respect, Commissioner, my clients are not implicating Mr Holomisa in corruption and so in terms of the rules of this Commission there would be no basis for them to be cross-examined, they're not implicating Mr Holomisa in anything, so there would be no cross-examination of them, according to the rules of this Commission. There's not a list(?) between – in the sense and proper sense of the word between us and Mr Holomisa before this Commission. Our role here is regulated in terms of the rules of this Commission and that is to cross-examine, Mr Holomisa and once that is over, because he has implicated our clients in so much corruption, once that is over, the statements will be made available which will set out, from our point of view, the complete picture.

MR EMMANUEL LEDIGA: Mr Chairman, may I ask a question seeing that I'm not following what Mr Burger is saying. Is he suggesting to the Commission that he will object to Mr Holomisa's right to cross-examination his clients?

MR DANIEL BURGER: Yes.

MR EMMANUEL LEDIGA: Well, Mr Chairman, then it presents a completely different picture because here you have an entity which so far has not produced a single piece of paper other than a mere say-so in a sworn statement before court in circumstances where this is a matter of manifest public interest. We would like to cross-examine them, we would like to cross-examine all these individuals that – we

always understood that the basis upon which the cross-examination, we didn't object to, was that they in turn would subject themselves to cross-examination. So the idea that they will come here, parade themselves, preach to everybody and then walk out of the room simply does not conduce to a better ventilation of the issues. This is a Commission of Inquiry, we need the facts to be put up and sometimes cross-examination facilitates the gathering of the evidence. So we should really consider why we should subject Mr Holomisa to this purposeless cross-examination if it will not be accompanied by a cross-examination of these entities.

ADV JANNIE LUBBE SC: For the record, Mr Commissioner, I can cross-examine my learned friend's clients on Monday in terms of the rules but I think it's – for the moment it is unnecessary to engage in all these arguments. I'll meet with my colleagues and we'll bring a solution to the Commission on Monday morning.

CHAIRPERSON: Yes, Mr Lubbe, I think that's a practical solution because I thought I would say I'm not able to rule now. If I need to look at anything we'll do so and come back on Monday. But I would welcome you meeting and arrive at a amicable solution.

I must say, Mr Burger, I didn't think that someone can come and give evidence – rather, to come and cross-examine then give evidence and not expect to be cross-examined but I shall look at that and consider it.

MR DANIEL BURGER: Well, the rules, Chairperson, only provide for cross-examination of a person who implicates someone else in wrongdoing and those are the rules of this tribunal and if there is to be

an application, I don't know on what basis there would be such an application but if there is to be an application to cross-examine my clients by Mr Holomisa, I don't know what rule would be relied on but in any event, that would have to be a substantive application which we would be entitled to answer.

CHAIRPERSON: Ja, thinking logically, I think that there should be cross-examination. I mean, if a witness comes and put matters or put certain issues to Mr Holomisa, for instance, we've used this example, I don't know what the strength of evidence of that witness will be, that witness can't be cross-examined, thinking logically, but let's leave it there for the moment and I'll consider it when we come back.

MS GILL MARCUS: Given the voluminous documentation that has been presented to us today, as the Commission, I strongly urge that the statements being made by your clients for Monday be with us by Friday afternoon, close of business, five o'clock, so that we have the ability to go through things properly in the context and are not presented with them as we come to the table because that I think seriously disadvantages the Commissioners in their ability to ask the relevant questions.

MR DANIEL BURGER: I can assure you ...[intervenes]

MS GILL MARCUS: So if we can assure you through Adv Lubbe that we have the documentation in addition to these files that we got as we came in here so that we are also in a position to do our job properly.

MR DANIEL BURGER: I can assure you that the statements will be with the Commission before close of business on Friday.

ADV JANNIE LUBBE SC: Can I perhaps add that I have the

arrangement with the lawyers, my learned friend, that it will be presented to us tomorrow afternoon, that it will be in electronic format available to the Commission Thursday night.

CHAIRPERSON: But preferably hard copies as well when we come on Monday.

ADV JANNIE LUBBE SC: Yes, Mr Commissioner, it will be delivered on Sunday afternoon to your hotel.

CHAIRPERSON: Anything before we take the adjournment, Mr Burger?

MR DANIEL BURGER: No, that is it.

CHAIRPERSON: Mr [indistinct]?

UNIDENTIFIED SPEAKER: No, Mr Chair, thank you very much.

CHAIRPERSON: Yes, the Commission adjourns until Monday at ten.

INQUIRY ADJOURNS TO 15 APRIL 2019