

COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT CORPORATION

HELD AT

TSHWANE, PRETORIA

10

22 JULY 2019

DAY 57

20

PROCEEDINGS HELD ON 22 JULY 2019

CHAIRPERSON: Morning everybody.

ADV JANNIE LUBBE SC: Good morning Mr Commissioner and member. It's strange not to have Ms Marcus with us.

CHAIRPERSON: Yes I think we need to place on record that it's myself as Chair and Mr Lediga present today with Ms Marcus absent because of other commitments.

ADV JANNIE LUBBE SC: Thank you Mr Commissioner. Mr Commissioner we are ready to proceed with the testimony of Dr Matjila
10 but before I do so I received a letter by e-mail dated the 18th July and it was signed by Mr Shezi who you will recall was mentioned in the evidence of Dr Matjila. Mr Sizwe Theophilus Shezi with a request that I present this letter to the Commission and by doing so then it will not be necessary for him to apply to come and give testimony. So I'm going to read this letter into the record Mr Commissioner, I've given copies to Dr Matjila and counsel and it reads as follows:

“Dear Sirs submission in response to the testimony of Dr Daniel Matjila.

20 I'm writing to the Commission of Inquiry into allegations of impropriety regarding the Public Investment Corporation in response to the testimony given and submissions made to the Commission by Dr Daniel Matjila on or about the 15th July 2019 regarding the investment in Total South Africa TSA by Kilimanjaro Sakhumnotho Consortium Pty Limited Kisaco and funded by the Public Investment Corporation referred to as the

Tosaco transaction.

I watched in shock as Dr Matjila related his concerns regarding my involvement in Kilimanjaro Capital Pty Limited KiliCap and by virtue of the imposed merger Kisaco as a shareholder. My shock and surprise stems from the fact that at the very onset of the Tosaco transaction I personally met with Dr Matjila to introduce Mr Lawrence Mulaudzi and the Tosaco transaction to the PIC.

10 The meeting took place at the PIC head office in Garsfontein on the 21st May 2015. Dr Matjila therefore knew of my involvement and interest even before the Tosaco transaction started being processed by the PIC.

It is my understanding that among many steps in the PIC process, the PIC insists on submissions regarding ultimate beneficial shareholding in any investee company and my shareholding although indirect was fully disclosed. None of the PIC transaction team members nor Dr Matjila himself raised any concerns regarding my shareholding in KiliCap or indirectly in Kisaco at any point before the Tosaco transaction reached financial close.

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It is indeed true that I personally felt very aggrieved regarding the imposition of a merger with another company and I conveyed this to Dr Matjila himself. Dr Matjila testimony that I'm angry because he would not issue a binding letter of support is not true. KiliCap was confident in the value

proposition presented to the PIC and the feedback regarding the funding application process. I trust it is clear to the Commission that the PIC had no concerns regarding the financial and commercial merit of the Tosaco transaction.

It is a blatant lie that I approached the then Minister of Finance Dr Nhlanhla Nene and Deputy Minister Mr Mcebese Jonas to have Dr Matjila fired. It is my understanding that matters relating to the employment of the Chief Executive Officer of the PIC would fall under the purvey of the Board of directors of the PIC.

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I would urge the Commission to seek comment from Mr Nene and Mr Jonas regarding the spurious allegations made by Dr Matjila and I am certain that they will deny the same as no such exchanges between myself and Mr Nene or Mr Jonas ever took place. Dr Matjila has unfairly and dishonestly created the impression that I'm a politically exposed person when the same has no basis.

I am willing to present myself to the Commission and place the facts on record regarding my involvement in the Tosaco transaction and/or provide any assistance to the Commission that it deems necessary.”

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And it's signed by Mr Shezi. Thank you Mr Commissioner.

CHAIRPERSON: Yes thank you. Mr Roelofse is there anything that you would like to say in regard to this letter?

ADV ALEXANDER ROELOFSE: Dr Malatji(sic) does have some

comments. Sorry, I apologise (laughs) Matjila does have some comments Mr Commissioner.

CHAIRPERSON: I wondered who that was. Thank you. Dr Matjila I think let's take the oath afresh. There's some entertainment going on. Dr Matjila you don't have any objection, you have taken the oath before.

DR DANIEL MATJILA: I have Commissioner.

CHAIRPERSON: Do you then swear that the evidence you're about to give will be the truth, the whole truth, nothing but the truth, raise your
10 right hand and say so help me God.

DR DANIEL MATJILA: [Vernacular spoken].

CHAIRPERSON: Thank you very much. Yes what would you like to say about the contents of this letter?

DR DANIEL MATJILA: Thanks Commissioner. It's true that I've met Mr Shezi before, in fact it's probably on a number of occasion including the transaction that we're going to discuss later in Erin Energy, he's the one who introduced the promoter but the fact that he was an indirect, has indirect interest in this was never disclosed to us, I don't know how we get to know about this interest, indirect interest you know, all we
20 could assess is direct interest based on information that is provided to us you know which information didn't include his name. And he's well-known Mr Shezi to have run the former President Zuma's foundations in the past and very much linked to that office you know and therefore that makes him a politically exposed person in terms of the definition.

MR EMMANUEL LEDIGA: And then the final one is about you saying

that he asked the Minister to fire you.

DR DANIEL MATJILA: That I heard from the Deputy Minister who was the Chairman of the PIC that time, Mr Mcebisi Jonas, I think that's what we said in the statement as well.

MR EMMANUEL LEDIGA: Okay, alright.

ADV ALEXANDER ROELOFSE: Dr Matjila what is your comment on Mr Shezi's allegation the fact that he introduced Mr Mulaudzi was sufficient for you to have known or that you should have known of his involvement and interest in the Tosaco transaction?

10 **DR DANIEL MATJILA:** I think Commissioner it's very common for people to introduce other potential client of the PIC to the PIC and they will disappear from the scene and we wouldn't know any sort of arrangement that they have you know from this introduction so it's very common that people do introduce customers if I can put that word of the PIC.

CHAIRPERSON: Yes but do you agree that he introduced Mr Mulaudzi do you remember that?

DR DANIEL MATJILA: I agree, I agree that he did introduce Mr Mulaudzi.

20 **CHAIRPERSON:** Yes thank you, any further comment?

ADV ALEXANDER ROELOFSE: We don't have any further comment Mr Commissioner.

ADV JANNIE LUBBE SC: I don't have any.

CHAIRPERSON: Thank you. We shall then proceed with the evidence.

ADV ALEXANDER ROELOFSE: Mr Commissioner we are at page 184

paragraph 539 dealing with the issue of Daybreak Farms. Page 184 paragraph 539.

CHAIRPERSON: Yes thank you, you may proceed.

DR DANIEL MATJILA: Thank you Commissioner. 539 Mr Roy Rajdhar in his statement to this Commission has given a detailed presentation how the investment in Daybreak was made. The investment was made to drive transformation in the agricultural sector, stimulate economic activities in the areas around its operations by supporting small farmers to provide maize, soya beans and to provide jobs required to
10 make the farms to run efficiently and profitably.

Under the leadership of Mr Maponya who had very little respect for governance the farm took a big strain to a point of near collapse. We had to intervene to save the PIC investment. We removed Mr Maponya and replaced him with Mr Thinus De Jonge an employee of the PIC whilst we were looking for a suitable individual. Mr De Jonge managed to stabilise the operations. I think Mr De Jonge testify to this Commission.

I requested Mr De Jonge to conduct a forensic investigation into the affairs of Daybreak Farms. The report uncovered acts of
20 maladministration and lack of respect for governance on the part of Mr Maponya. The PIC embarked on an exercise of replacing Mr Maponya as CEO and also to perfect its security in the funding instruments to MMI which had now breached governance. The results of this exercise was to take over the affairs of the company by the PIC to protect its investment. Mr Maponya was replaced by Mr Seruwe the former

Commissioner of the UIF who had just finished his term at the UIF. Mr Seruwe will lead the company back to profitability. Daybreak Farms is now profitable and making significant contribution to the transformation of the poultry industry.

ADV ALEXANDER ROELOFSE: No further questions Mr Commissioner.

CHAIRPERSON: Any questions.

ADV JANNIE LUBBE SC: Thank you Mr Commissioner. Dr Matjila if my recollection is correct with the problems with AfriSam trying to correct that one of the conditions was that they must sell off Daybreak
10 because it was non-profitable, can you recall that?

DR DANIEL MATJILA: It's Afgri.

ADV JANNIE LUBBE SC: Afgri?

DR DANIEL MATJILA: Afgri yes.

ADV JANNIE LUBBE SC: Is that correct?

DR DANIEL MATJILA: I recall that.

ADV JANNIE LUBBE SC: And in less than a year after that the PIC invested in Daybreak?

DR DANIEL MATJILA: That's correct.

ADV JANNIE LUBBE SC: And I put it to you it was basically a
20 bankrupt business at the time, Daybreak.

DR DANIEL MATJILA: Ja it looks pretty bad, but I mean technically it looked like it's bankrupt but we believed that there was a lot of value in it and the potential to turn it around to drive job creation and transformation in that area.

ADV JANNIE LUBBE SC: And coupled with that we had the situation of

Mr Maponya who I believe is also the same guy or the person involved in SA Home Loans?

DR DANIEL MATJILA: That's correct, that is the Mr Maponya.

ADV JANNIE LUBBE SC: He is a person you state here under oath is a man who had very little respect for good corporate governance?

DR DANIEL MATJILA: That's correct.

ADV JANNIE LUBBE SC: Now the technical insolvency of this entity and coupled with, what seems to me poor leadership, was that picked up in the due diligence?

10 **DR DANIEL MATJILA**: Commission not at that stage, not at that stage. I think Mr Roy Rajdhar gave a fair amount of explanation around the technical details of this so-called technical insolvency.

ADV JANNIE LUBBE SC: And according to information I think it's also been, Mr De Jonge testified about that, shortly after this investment by the PIC into Daybreak Farms Mr Maponya fired almost the whole executive top structure of the company?

DR DANIEL MATJILA: I understand so, there were key people that were fired and replaced by people that you know he appointed.

ADV JANNIE LUBBE SC: And that also resulted in the worsening of
20 the financial position of Daybreak Farms?

DR DANIEL MATJILA: That's correct ja.

ADV JANNIE LUBBE SC: Now luckily for the PIC this is one of the good stories before the Commission because of interventions by the PIC you were able to turn around this company, is that correct?

DR DANIEL MATJILA: That's correct we were able to turn around the

company through our intervention.

ADV JANNIE LUBBE SC: Thank you Mr Commissioner.

MR EMMANUEL LEDIGA: Yes I've got a couple of questions here, the first one is on the first paragraph you've got 539 last sentence, you mention supporting small black farmers and to provide jobs and all that, did it happen, did that program happen?

DR DANIEL MATJILA: Commissioner we have a report that we can share with the Commission on the successes around these issues that are mentioned here, you know profitability that's been mentioned but in
10 terms of job creation and supporting small scale farmers we can give the Commission that report. That has been achieved.

MR EMMANUEL LEDIGA: Yes so jobs have been created and black farmers have been supported ... (intervention)

DR DANIEL MATJILA: Absolutely and most importantly when we started there there were lots of casual workers, in fact they came in through brokers and once the company became profitable they were all absorbed into the company as permanent employees, almost half of the workforce there.

MR EMMANUEL LEDIGA: Just tell me first about Afgri I mean what,
20 when did the PIC put in the money there and what has happened to Afgri and where is it now?

DR DANIEL MATJILA: Phew well ... (intervention)

MR EMMANUEL LEDIGA: Just briefly just to understand.

DR DANIEL MATJILA: I think first ja we put in money, I can't remember the dates it should have been close to 2014 somewhere

around there, I think my colleagues came to present here.

MR EMMANUEL LEDIGA: 2013 it looks like ja.

DR DANIEL MATJILA: Ja somewhere around there, and it has done very well, we also did a further joint investment into a bank, I think it was Bank of Athens, they bought Bank of Athens to use it as a vehicle to support financing in agriculture. So Afgri has done very well you know. So as the evidence leader was saying Commissioner Afgri wanted to exit Daybreak and they were exiting it because they were not running it properly and so PIC saw an opportunity to get into it and turn
10 it around. I mean we can accept that unfortunately the person who was supposed to run with this was not the best but at least we managed to turn it around and ja. So Afgri has done very well so far.

MR EMMANUEL LEDIGA: Generally well?

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: And sort of who was the BEE partner there in the Afgri investment?

DR DANIEL MATJILA: We had supported by ... (indistinct) which is the company led by Mr Maponya.

MR EMMANUEL LEDIGA: Yes, yes and where is his stake now, what
20 has happened to the BEE grouping Afgri?

DR DANIEL MATJILA: Ja my understanding is that through several, I think it's one or twice where a financial contribution was needed to buy into Bank of Athens and I can't remember another transaction so PIC didn't support their portion, PIC did direct investments so they have been diluted slightly in other words.

MR EMMANUEL LEDIGA: Into what around 12%?

DR DANIEL MATJILA: I don't have the figure ... (intervention)

MR EMMANUEL LEDIGA: Ja because it looks like they had about 20% and they were diluted to around 12% is that correct?

DR DANIEL MATJILA: They would have been diluted to that ... (intervention)

MR EMMANUEL LEDIGA: Somewhere there.

DR DANIEL MATJILA: At that point ja, but my understanding is that they've been given an option, you know they've been given an option to
10 raise funding to buy PIC's portion so it's there if they can get other funding.

MR EMMANUEL LEDIGA: Ja wanting to buy out sort of the stake that PIC holds in Afgri?

DR DANIEL MATJILA: Absolutely.

MR EMMANUEL LEDIGA: The total stake?

DR DANIEL MATJILA: Ja that's my understanding that they do have an option if they can raise funding from elsewhere.

MR EMMANUEL LEDIGA: Ja and then just in terms of the valuation of R1.2 billion I would take it that the money went to Afgri the cheque you
20 know the R1.2 billion cheque of selling Daybreak then it goes to Afgri. What happened to that money did the PIC get a special dividend and the other partners and all that, can you recall?

DR DANIEL MATJILA: I can't recall what happened to the money, I think it's something that can be checked with the company but my senses are it would have been kept in the company to settle other

liabilities and for growth as well, to expand the business. I don't remember a special dividend following that transaction.

MR EMMANUEL LEDIGA: Yes because this could clear some debt that the PIC has given to the BEE consortium and the PIC itself isn't it?

DR DANIEL MATJILA: That's right ja but I think it must have been kept in the company for growth and balance sheet restructuring but ... (intervention)

MR EMMANUEL LEDIGA: So you can't recall whether there was a dividend or not?

10 **DR DANIEL MATJILA:** No I can't recall a dividend Commissioner.

MR EMMANUEL LEDIGA: Okay alright. And then in terms of the corporate governance you say sort of it was poor Mister, the MMI person Maponya, tell me I mean from his CV without yet the experience in farming and all that, I mean if you look at his CV the person has that experience in farming and all that so what went wrong there, why couldn't he run Daybreak?

DR DANIEL MATJILA: I think it boils down to general governance you know the process of making investments and I mean the process of running a company and understanding the role of the CEO versus the
20 board you know what the CEO is hired to do, what is within their delegative authority, you know I think he was running it as if he's the board and everything you know forgetting that there is a board who's supposed to make rules and then he execute on that basis so unfortunately he set up many other things, made very significant changes without the approval of the board which were unfortunately not

contributing to the growth of the company you know. So that's why we had to step in and intervene to stop the potential loss of our investments at the time.

MR EMMANUEL LEDIGA: Yes, yes alright and then the final question is on Daybreak and the future, because when one looks at the numbers you are saying it's doing well but if you look at returns into the future they are projected not to meet the benchmarks, you know they are looking at about 7, 6% per annum you know in terms of returns the IRL.

DR DANIEL MATJILA: Well the IRL I guess will be the impact of the
10 huge losses that were made in the beginning that have taken up quite a bit you know so to make up for that you need you know more time unfortunately you know and so it's a typical turnaround situation where you will have to wait longer to get to the returns that you want. But I saw an article saying chickens are going to be very expensive soon so we may recover money very quickly.

MR EMMANUEL LEDIGA: With chickens you never know, we'll see ... (intervention)

DR DANIEL MATJILA: As long there's no bird flu and all those kind of things but I think that facility has withstood those kind of shocks in a
20 spectacular way.

MR EMMANUEL LEDIGA: Ja with chickens you can't know because you know on the JSE the chicken stocks have done well generally but ja, ja. And then the final thing is just in terms of lessons on this transaction what are the key ones, I mean where do you think the PIC went wrong, you know what are the key lessons there?

DR DANIEL MATJILA: Ja I think when I, before I left the PIC we were busy working out you know a new way of closing transactions you know there has to be a pre-disbursement process in the unlisted space where we ensure that the governance structures that are supposed to be in place are in place you know fully before a disbursement can happen you know and that ... (intervention)

MR EMMANUEL LEDIGA: Like the Mozambique ... (intervention)

DR DANIEL MATJILA: The similar kind of ja, ja those are some of the learnings and so we were putting together a solution to say you know
10 what are the things that needs to be done when a transaction hasn't been approved and disbursement is about to take place, you know what should be in place you know from governance, governance that deals with the finances of the company, systems, people, all of those kind of things that are required you know to ensure that the company is ready. If it's new but it must be ready to run so that when the money flows it flows into a board that is able to control the affairs of the company properly and we were putting together at that time a unit and we were still thinking about whether it should be part of the expansion of the work of audit, and I'm not saying internal audit but audit in general that
20 PIC might have to think of a unit at that point that deals with audit and it can be both internal and the audit that's done on companies that we are invested in, especially the small ones that don't necessarily have you know the right audit firms if I can use that word you know with respect you know, that some credible companies that can provide that audit work to give comfort that the company is in good shape, it's

running its books properly, there's governance and so on and so forth. That's something that we were about to put together as part of the PMV, portfolio management and valuation but those deal with audit issues so that we get a handle on the finances of our investee companies.

MR EMMANUEL LEDIGA: So this would be like governance structures, you know what finances in, you know like in terms of what financial statements being issued and all that, is that what you're saying?

DR DANIEL MATJILA: Absolutely.

10 **MR EMMANUEL LEDIGA:** And your systems is that what normal procedures, policies?

DR DANIEL MATJILA: Policies procedures and also taking advantage of technology to see how we can link to each and every investee company that at least we are on top of the records, we can see them also live, you know any invoice whatever movement in cash by the end of the day or end of the week we know what's happening at the company and the end of the month, the quarter, we get quality information coupled with the PIC team going there to check that things are done properly. I think it's an important one Commissioner, it's an
20 import question especially if we have an appreciation that unlisted investments are probably the area that may help the economy to grow if we identify but it requires the right kind of management and systems. So this kind of a structure if it's implemented it may go a long way in ensuring that the unlisted investment portfolio is as robust and properly managed as possible.

MR EMMANUEL LEDIGA: Just to finalise then what do you think, what are the two or three things that went wrong at the beginning of that transaction then, how would you summarise them?

DR DANIEL MATJILA: I would summarise it as more at the implementation stage, implementation I'm talking about money flowing and so on and not finding the right governance structure to accept it and do what is necessary to take the company forward.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: For me that is a big one. The issue of valuation
10 that it was overvalued and this and that we know we do have you know
views around what the valuation should be, the seller also has a view
about what his valuation is and then after you know a couple of fights
you punch each other to a point where you will agree that maybe that's
the value that can be accepted by both parties and then you transact on
that basis. The onus is on the buyer to say how do I extract you know
returns out of it because you don't overpay without a plan to generate
the returns, you know there has to be something appealing that says to
you I can pay a little bit of premium because if I do X, Y and Z I should
be able to recover that and make money you know the fast possible way
20 you know. So for me the biggest challenge and it cuts across most of
the investment that went wrong in the PIC it's governance you know on
conclusion of the transaction that's supposed to do certain things once
the money has flowed into the company though we've paid for the
asset.

MR EMMANUEL LEDIGA: So you are saying the main thing was the

governance and the management basically?

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: And monitoring, what about the monitoring?

DR DANIEL MATJILA: From there it's again, I mean it's governance can be across, you know it's from having the right board, the right board that's going to make sure that there are, the management, there's management that's supposed to run the affairs of the company which will then make sure that there are policies, procedures and many other you know processes that of course can drive the company to
10 function.

That's very key and then you rightly say the monitoring from our side that it becomes a lot more robust you know. One of the things that I will probably recommend to the committee as well in terms of PIC structure is beefing up of the portfolio monitoring and valuation team.

It has to be strengthened and it does not have to be a very big team internally because there are lots of other service providers you know small and medium size that should be able to perform some of the functions on behalf of the PIC and we had tested that before I left by the way with one or two companies that were in distress. We appointed
20 you know small black firms to conduct some work for us and they did a great job and we thought we could expand that activity to cover the bigger portfolio.

MR EMMANUEL LEDIGA: Yes alright. And then the final question is on 542 which is quite an interesting thing but maybe you can add some colour to that that the UIF seems it was an investor in Daybreak, isn't

it?

DR DANIEL MATJILA: That's correct, ja.

MR EMMANUEL LEDIGA: And then the person from there was taken to run the company. How do you- it might not look good, it could be correct but it might not look that good.

DR DANIEL MATJILA: I think Chair, I mean we valued the experience of the former UIF commissioner because he was leaving the commission.

MR EMMANUEL LEDIGA: Yes.

10 **DR DANIEL MATJILA:** And he knew the investment the challenge that we were faced with quite well and this was supposed to be a interim measure to say you know let's replace this person with Mr Seruwe you know so that he can help us restructure the company.

But he did a fantastic- he was just supposed to stabilise the company and get it to a point where we can now put together the right governance, look for the right CEO and do all the intervention that is necessary. But he had done such a great job that there were changes and he was recommended to become even the CEO at some point by the board, ja.

20 **MR EMMANUEL LEDIGA:** And it went through normal sort of approval processes?

DR DANIEL MATJILA: Internal, yes.

MR EMMANUEL LEDIGA: Any conflicts of whatever?

DR DANIEL MATJILA: Yes. No, we didn't pick up any conflicts.

MR EMMANUEL LEDIGA: Any conflicts.

DR DANIEL MATJILA: Ja, we recommended him to our board as a director first.

MR EMMANUEL LEDIGA: Ja, okay. And it was approved by the board and all that.

DR DANIEL MATJILA: Exactly, yes.

MR EMMANUEL LEDIGA: Okay alright. Okay thank you, I think I'm done.

CHAIRPERSON: Dr Matjila, it's quite encouraging to hear that the company succeeded you know with its aim with job creation etcetera
10 with Daybreak. But at the time that you left the company, did you have any idea of how big Daybreak was in terms of employee numbers?

DR DANIEL MATJILA: Commissioner, we can get the numbers. Really, what I remember there was almost 3 000 or so that were there through labour brokers, almost 3 000 but I'm sure the company can give us the right numbers. Who the company then absorbed into permanent position removed the middle man you know so that was a big achievement at the time. Ja.

CHAIRPERSON: Thank you.

DR DANIEL MATJILA: And the workforce I think we can get the
20 numbers but it's north of 3 000 I think that are working there just in the facility and of course there will be others that benefits from the value chain or activity- business activity of Daybreak founders.

MR EMMANUEL LEDIGA: Just to double check, so small farmers sort of providing maize and soya beans to Daybreak I mean how does it actually work? I mean do you go to the farmers and then assist them,

how does it work that you know you sort of leave the large farmers and go to small farmers? Do they deliver the goods and all that? How does it actually work? Is it a good seamless process or you need to support them and ... (intervenes)

DR DANIEL MATJILA: Commissioner, I think the company ... (intervenes)

MR EMMANUEL LEDIGA: Can you remember I mean do you know?

DR DANIEL MATJILA: I think the company will be in a much much better position to assist with that. The big farmers are still part of it to
10 bring you know the security of supply you know but then you give the small farmers a chance as well to farm and support them with the necessary tools, equipment, technical advice to be able to do that.

And this kind of things work even better if the big farmer is roped in to assists the small farmer with the technical advice and many other things and then you find that it works even better if you do that. But I would really you know the Commission to get the report from the company directly, ja.

MR EMMANUEL LEDIGA: Good stuff, ja.

CHAIRPERSON: Mr Roelofse, anything else?

20 **ADV ALEXANDER ROELOFSE:** Nothing else Mr Commissioner, thank you.

ADV JANNIE LUBBE SC: Commissioner, with your leave, I haven't discussed it with my learned friend before and- but it's not a trick question or a trap I'm trying to set. But while we have Dr Matjila here, I just want to ask him a couple of questions on the Karan Beef

transaction which is also part of the investigations by the forensic team and that came out in the James Nogu emails that people benefitted from that transaction.

Dr Matjila, you are ... (intervenes)

CHAIRPERSON: No, let me ask Mr Roelofse, is there any problem with that Mr Roelofse, at this stage?

ADV ALEXANDER ROELOFSE: I don't think that there is any problem. Dr Matjila will answer as best he can and if he can't answer then he can't answer, Mr Commissioner.

10 **ADV JANNIE LUBBE SC:** Thank you, Mr Commissioner.

Dr Matjila, I'm sorry I'm bringing this up now but it's just it's going to assist our investigating team as well. You've been involved in the Karan Beef transaction.

DR DANIEL MATJILA: Mm.

ADV JANNIE LUBBE SC: Now I can just place on record that we have almost completed that investigation and we couldn't find anything wrong from PICs side with that proposed investment.

It's not done yet, it's not signed and sealed but what has emerged from this investigation is that the GEPF might have lost their
20 appetite for this transaction based on the fact that where it is a family business like Karan Beef, it is a risk if you refer to the big farmer the big white farmer, if you can call it that, Mr Ivor Karan is the big white farmer.

DR DANIEL MATJILA: Mm.

ADV JANNIE LUBBE SC: In terms of this transaction he will still be

involved after the transaction for a period of two to three years. The concern of the GEPF is that once and because it's a family business, the previous owner leaves, this business might collapse. Can you comment on that?

DR DANIEL MATJILA: Commissioner, first this came about through this James Nogu allegation again and James Nogu has brought us here and each time you know we hear that James Nogu's allegations cannot be tested from senior council Advocate Budlender where James Nogu said I had a romantic relationship with Ms Louw and it was proven that
10 is not the case.

And his been consistent this James Nogu because even in the Karan I'm glad to hear that nothing was found so. But James Nogu has crossed us quite a lot some of us in a big way. I'm here today, we are here today because James Nogu is making allegations and he still has not been found you know.

But it's a difficult question, sometimes we want control. You know we say we want to control companies, we want to make them BEE 100% or whatever it is and when that happens it also raises all kinds of issues around risk that you know the founder is not there therefore the
20 company can go down etcetera.

For me it's really the agreement on role the founder is going to play in the company and if he's determined to make sure that the company doesn't fall apart and the right structures that are put in place, governance structures that are hopefully to the satisfaction of the client GEPF themselves that there is the right board, there is the

right technical expertise, management and so on.

This companies run even better than it was run before, I don't see any problems with that, I don't see any risk. And we did this transaction deliberately because he wanted to exit completely and we said there's no way that you are going to exit completely. We would like your technical advice and his response was, I'm around I mean I will stay as long the PIC needs me to stay in the company. It will be with a small exposure not an exposure as big as I used to and he becomes an employee instead of a significant shareholder in other
10 words.

So we were comfortable, I'm not sure what makes the GEPF uncomfortable with this scenario.

ADV JANNIE LUBBE SC: Thank you. Thank you, Mr Commissioner.

MR EMMANUEL LEDIGA: Two questions to follow up there. So if you pay him sort of the bulk of the money and he says he will be there for three years or so, what stops him from saying, no I don't want to participate if the payment is not staggered for him to stay on?

DR DANIEL MATJILA: I'm sure the PIC can consider a mechanism to tie him in into the transaction for longer.

20 **MR EMMANUEL LEDIGA:** Just another one, it's a different one but it's part of Karan Beef. You know I think it's Mr Motau who was the advisor to the BEE consortium. The one thing that bothered me and they said I must ask you is that he says there was a 10% stake, I think in EFG, another company that he was supposed to have and between you and others made sure that he doesn't get that particular stake.

DR DANIEL MATJILA: Is that ETG?

MR EMMANUEL LEDIGA: ETG yes.

DR DANIEL MATJILA: I think you're talking about ETG.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: I don't have the details of that Commissioner and I don't know how to respond to that because there was a little bit of disagreement about who brought the transaction to the PIC and what-who plays what role in this transaction. But I think the team should be able to give the Commission a better answer because I was not
10 intricately involved in the finer details.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: What I know is that there was a dispute between the role that he was playing in the transaction versus what the team said he was doing, there was a dispute there.

MR EMMANUEL LEDIGA: Mm. Yes, because I asked I think Ms More who was chairing that PMC meeting and she couldn't give me the answer.

DR DANIEL MATJILA: Mm. Ja.

MR EMMANUEL LEDIGA: Ja, because we need some answer there.

20 **DR DANIEL MATJILA:** Ja, I think probably I mean I will say the team that's there with Mr Motau, I'm sure they can be persuaded to resolve their issues.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: I don't think it's a big issue from where I'm sitting.

MR EMMANUEL LEDIGA: Yes, it was about ... (intervenes)

DR DANIEL MATJILA: I used to sit.

MR EMMANUEL LEDIGA: Yes, it was about a 10% stake. It wasn't about advisory fees it was him being promised a 10% stake. Can you recall that?

DR DANIEL MATJILA: No, I don't recall that.

MR EMMANUEL LEDIGA: Alright, so we should ask the deal team then to ... (intervenes)

DR DANIEL MATJILA: I think- yes, I think it's only fair that they be
10 brought into one room and resolve their issues.

MR EMMANUEL LEDIGA: Okay alright. Okay, thank you.

ADV JANNIE LUBBE SC: Thank you. Mr Commissioner, we will now proceed with the Erin Oil transaction- Erin Energy, I apologise. There is not a statement by Dr Matjila on Erin Energy. We have provided his council and himself with a bundle of documentation on this transaction and perhaps Dr Matjila briefly just first of all tell the Commission about this transaction and then we can ask him some questions on it.

MR EMMANUEL LEDIGA: Suffice to say that we didn't bring the document because we were not sure you were going to treat it today
20 but we can ask the questions tomorrow if we do have the questions alright?

CHAIRPERSON: Is Dr Matjila in a position to give some comment or evidence on Erin?

ADV ALEXANDER ROELOFSE: Yes, he is Mr Commissioner. Mr Commissioner, we have been provided with the documents by my

learned friend and I'll take Dr Matjila briefly through that documentation in such a fashion that hopefully the transaction will become clear to the Commission and thereafter questions asked of him.

CHAIRPERSON: Can you just tell us what's the first part or first page of whatever document you have before you because we ... (intervenes)

ADV ALEXANDER ROELOFSE: I'm going to be referring to a memorandum dated the 16th of September 2013 dealing with the investment of 270 million US dollars in CAMAC Energy via a private placement of CAMAC shares on the JSE. It's a memo dated 16th
10 September 2013.

ADV JANNIE LUBBE SC: Number three of the document.

ADV ALEXANDER ROELOFSE: Number three in the documents before you Mr Commissioner.

CHAIRPERSON: 16 September 2013.

ADV ALEXANDER ROELOFSE: Indeed.

ADV JANNIE LUBBE SC: I'm sorry to interrupt but I should have placed on record. This transaction is a new transaction that was brought to the investigating team of the Commission. It's a work in progress, it's going to take months before we can finalise this
20 investigation and it's just on that bases that we've agreed with my learned friend that we will introduce this transaction that we will ask from Dr Matjila that we need to go forward with this investigation.

CHAIRPERSON: Yes, we'll share this one for the moment.

ADV ALEXANDER ROELOFSE: Thank you, Mr Commissioner. May I proceed?

So Dr Matjila, please have a look at the 16th of September 2013 memorandum, you have that?

DR DANIEL MATJILA: I've got it.

ADV ALEXANDER ROELOFSE: Okay. This is an investment memorandum dealing with an investment that's headed of 270 million US dollars into CAMAC Energy via a private placement of CAMAC shares on the JSE. And the purpose of the memorandum is to request approval for that amount 270 million US equity investment in CAMAC via the private placement ahead of a secondary listing of CAMAC Energy inc on the JSE and following that investment the PIC will own 30% of CAMAC Energy shares and will be requesting a board seat plus representation on one of the important subcommittees such as audit and risk.

DR DANIEL MATJILA: Yeah.

ADV ALEXANDER ROELOFSE: The time that this transaction- you were involved with this transaction, what was your position at the PIC?

DR DANIEL MATJILA: I was the Chief Investment Officer, Commissioner.

ADV ALEXANDER ROELOFSE: And then if I can refer you to page 22 of that memorandum, paragraph 58, page 22 paragraph 58.

DR DANIEL MATJILA: I'm there.

ADV ALEXANDER ROELOFSE: Paragraph 58.

DR DANIEL MATJILA: Okay.

ADV ALEXANDER ROELOFSE: These paragraph set out the deal.

DR DANIEL MATJILA: Yeah.

ADV ALEXANDER ROELOFSE: Is that correct

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: And will you just read that for us into the record?

DR DANIEL MATJILA: The deal, paragraph 58.

CAMAC Energy Incorporated and its affiliate CAMAC Petroleum will enter into an asset acquisition agreement with Allied Energy and the Allied Energy affiliates in terms of which it will acquire all of the remaining rights in the PSC Production Sharing Contract not currently
10 held by CAMCA Energy.

ADV ALEXANDER ROELOFSE: If I can just stop you there, perhaps we should go back a paragraph and deal with the deal structure and the relationship between CAMAC and Allied Energy. Its paragraph 54, so will you read those paragraphs 54 through to 57?

DR DANIEL MATJILA: Yes. The relationship between CAMAC Energy and Allied Energy, there's a deal structure, Commissioner.

Allied Energy owns 100% equity in the operating mining licenses, OML 120 and 121. Allied Energy and CAMAC Energy Incorporated own economic interest split of 87.5 and 12.5 respectively of the MOL 120
20 and 121 through a production sharing contract.

CAMAC Energy Incorporated is purchasing the remaining 87.5 economic interest of the PSC from Allied Energy worth 787 million dollars based on a .9 billion valuation.

Once completed CAMAC Energy will own 100% of the economic interest in the MOL 120 and 121.

ADV ALEXANDER ROELOFSE: Thank you, Mr Commissioner.

So in terms of this relationship, Allied and CAMAC were respectively partners if one can put it that way in what is called a production sharing contract?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: Allied was 87.5%, CAMAC was 12.5%. CAMAC was buying Allied 87.5% in that PSC or production sharing contract?

DR DANIEL MATJILA: That's correct, Commissioner.

10 **ADV ALEXANDER ROELOFSE:** And then you proceeded with the deal. You read out paragraph 58 which states what I've just said to you and then paragraph 59 carries on. Would you read that into the record please and further?

DR DANIEL MATJILA: 59.

Following the completion of the Allied acquisition CAMAC Energy Incorporated will hold the rise to 100% of the production and rise to explore and develop all of OML 120 and 121.

20 The completion of the Allied acquisition will reside in CAMAC Energy Incorporated net share of production from oil field increasing from the current 215 barrels of oil per day to 2 339 barrels of oil per day and give CAMAC Energy the exclusive ability to explore and develop 1.8000 square kilometres of acreage offshore of Nigeria.

The acquisition will result in a significant majority of CAMAC Incorporated business being focused on proven and producing assets as well as exploration upside in Nigeria and will provide additional cash

flow to fund its exploration program.

ADV ALEXANDER ROELOFSE: Thank you, Doctor. So we know that the purpose of the investment was for the PIC to eventually buy 30% of CAMAC Energy shares, is that correct?

DR DANIEL MATJILA: That's correct, yes.

ADV ALEXANDER ROELOFSE: And that was for an amount of 270 million US dollars?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: And how would the disbursement of
10 those funds take place if you take a look at disbursement and milestones set out in paragraphs 61 through to 63?

DR DANIEL MATJILA: It's as follows;

The consideration for the Allied Energy asset acquisition will be a combination of US 270 million in cash payable in two tranches, CAMAC Energy shares and CAMAC Energy shares. It is anticipated that the cash portion of the consideration will be funded by a CAMAC Energy share private placement with PIC.

It is anticipated that the PIC will enter into a placing agreement with CAMAC Energy in person to which it will invest 270
20 million in two tranches of 130 million and 140 million respectively at the price of 71.64 US cents per share.

There's a table of calculation there.

With the first tranche payable at the completion of the Allied Energy asset acquisition and the second upon completion of the drilling of Oyo-7 well and attaining more than 8 000 barrels per day.

The closing of both Allied Energy asset acquisition the private placing and the transaction contemplated by Allied Energy acquisition agreement and the purchase agreement detailed below and as subject to a number of customary conditions precedence set out and including but not limited to the approval of the issuing of share to Allied and the investor by stakeholders of the company in terms of regulations of the New York stock exchange including majority of shareholders not associated with Allied the listing of the company shares on the JSE as a secondary listing.

10 **ADV ALEXANDER ROELOFSE**: Thank you, Dr Matjila. Then if I can take you to the memorandum date of the 18th of February 2014 which is further on in the documentations that you've been given Commissioners. 18 February 2014, apparently its Annexure 14 Commissioner, as mine is not numbered.

MR EMMANUEL LEDIGA: Thank you.

CHAIRPERSON: Thank you, we've got it.

ADV ALEXANDER ROELOFSE: Thank you. This is a memorandum dated the 18th of February 2014. It's for the PIC board is that correct?

DR DANIEL MATJILA: Yes.

20 **ADV ALEXANDER ROELOFSE**: It's an update on the 270 million US investment in CAMAC Energy, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: The purpose of the memorandum is to update the board on that investment.

DR DANIEL MATJILA: Yes.

ADV ALEXANDER ROELOFSE: The next paragraph sets out the rational for the investment. It deals with South Africa's need for oil.

DR DANIEL MATJILA: Yes.

ADV ALEXANDER ROELOFSE: And over the page in paragraph 4, it deals with why one should invest in CAMAC, is that correct?

DR DANIEL MATJILA: That's correct, yes.

ADV ALEXANDER ROELOFSE: Would you briefly give us the rational as to why the PIC was investing in CAMAC?

DR DANIEL MATJILA: Okay. I'll read out paragraph 4 which gives an
10 explanation. Why invest in CAMAC, that's 4;
Investment was done at a discount to valuation, the proposed
investment valuation of 900 million dollars for an enterprise of US
cents 71.64 US cents represent a significant discount to the intrinsic
value of the business.

Our valuation only captures OML 120 and 121, CAMAC has six
other reserves. The shares have since re-rated to 1.63 dollar per share
up over 125 since quarter three of 2013. The valuation football shows
the current valuation based on various methodologies.

I think its paragraph number 10, that's the valuation football
20 field, they call it.

Valuation was based on reserves and resources that were very
far by an independent third-party and a competent persons report was
published. The competent persons report prepared by Gaffney, Cline
and Associates states that CAMAC had net risks reserves of 81.567
million barrels of oil and list containing 769 million barrels of

prospective oil resources and about 1.493 terra cubic feet of prospective gas resources as of June 2013.

CAMAC attribute table production is set to increased based on the Field Development Plan FDP. Indeed the buyout of the shareholding held by Allied CAMAC, CAMAC Energy, CAMAC ending owning 100% of OML 120 means that there will be an immediate increase in production by substantial amount. PIC will have a board seat in the company as well as representation on the audit and risk committee, that's the rationale.

- 10 **ADV ALEXANDER ROELOFSE**: Then, Dr Matjila, the disbursements of funds were based – were to be disbursed in two tranches, is that correct?

DR DANIEL MATJILA: That's correct, yes.

ADV ALEXANDER ROELOFSE: One was an initial tranche on completion of JSE listing.

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: Can you just explain briefly why there was to be a JSE listing?

- 20 **DR DANIEL MATJILA**: The JSE listing was very important for the PIC so that it subjects the asset to the local requirements and therefore giving comfort that the quality of the information that we'll be dealing with would have been approved by a regulator and signed off by reputable companies.

ADV ALEXANDER ROELOFSE: So there would have been a – what we've heard, a prelisting statement?

DR DANIEL MATJILA: A prelisting statement, in other words, will have to be issued. JSE approved prelisting statement.

ADV ALEXANDER ROELOFSE: And the second tranche was payable on completion of the drilling and attainment of a production rate of 7 000 barrels per day for Oyo7, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: And the use of the funds, a 100 million USD would be used for drilling of deep water production, well number 7?

10 **DR DANIEL MATJILA:** That's correct.

ADV ALEXANDER ROELOFSE: And another 100 million to be used for the reduction of the debt associated with the acquisition.

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: Of ENI's 40% holdings in OML.

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: ENI was who in the transaction?

DR DANIEL MATJILA: ENI is an Italian-based energy firm that sold its 40% interest in the MOL(?) 121 and 120 to Allied Energy, the way we understand it.

20 **ADV ALEXANDER ROELOFSE:** Then, Doctor, can I refer you to and extract from the minutes of the board meeting held on the 21 February 2014, it's the document just before the one that we've been dealing with so I assume it's 14.

DR DANIEL MATJILA: That's right.

ADV ALEXANDER ROELOFSE: Or it's 13.

DR DANIEL MATJILA: Yes, 31 October.

ADV ALEXANDER ROELOFSE: No, 21 February 2014.

DR DANIEL MATJILA: Okay. Sorry, I'm still trying to get to this.
Sorry.

ADV ALEXANDER ROELOFSE: Do you have that document,
Commissioners?

CHAIRPERSON: Is that annexure 13?

ADV ALEXANDER ROELOFSE: Extract from the minutes of the board
meeting held on 21 February 2014. Thank you. This is an extract from
10 the minutes of the board meeting held on the 21 February 2014, is that
correct?

DR DANIEL MATJILA: That's correct, yes.

ADV ALEXANDER ROELOFSE: The purpose was to report on CAMAC,
is that correct?

DR DANIEL MATJILA: That's correct, yes.

ADV ALEXANDER ROELOFSE: And the first paragraph reads:

20 "It was reported that PIC entered into a private placement
agreement with CAMAC Energy in CAMAC during November
2013 pursuant to which it agreed to invest 270 million USD in
exchange for 376 million shares equity in CAMAC prior to the
secondary listing of CAMAC on the Johannesburg Stock
Exchange."

And paragraph 1.1.2 confirms that the investment would occur in two
tranches of 135 million each payable firstly on the successful
completion of the JSE listing and the second tranche payable on the

drilling of the Oyo-7 well and that well attaining more than 7000 barrels per day, is that correct?

DR DANIEL MATJILA: That's correct, ja.

ADV ALEXANDER ROELOFSE: And this document was then an extract from the minutes of the discussion by the board on this particular transaction, is that correct?

DR DANIEL MATJILA: That's correct, yes.

ADV ALEXANDER ROELOFSE: And I just want to refer you to the last page of that paragraph 1.1.11.

10 **DR DANIEL MATJILA:** Yes?

ADV ALEXANDER ROELOFSE: It reads:

“After a lengthy discussion on the allegations made in the media PIC's responses to the media and PIC's approach to investment was stressed that the board should rely on management's integrity. The board could not take over that responsibility. Management should, however, keep the board abreast of its activities on an ongoing basis.”

Can you just explain what that was about?

20 **DR DANIEL MATJILA:** If I recall, there were a lot of media allegations into the newspapers around Allied and most importantly the participant or the lead shareholders in there, that they were politically exposed and the board needed to understand why, what are the issues and as he says after lengthy explanation the board was happy with the investment rationale from management because this fell within the delegated authority of management and asked management to take

responsibility for the asset and keep the board, you know, informed on an ongoing basis.

ADV ALEXANDER ROELOFSE: Okay, so ultimately did CAMAC list on the JSE?

DR DANIEL MATJILA: Commissioner, yes, it was listed on the 24 February 2014.

ADV ALEXANDER ROELOFSE: And did the PIC pay them the first tranche of 135 million US to it?

DR DANIEL MATJILA: Yes as per the deal structuring and payment.

10 **ADV ALEXANDER ROELOFSE:** Then if I can refer you to the last document – I'm not sure what annexure number it is, Mr Commissioner, it's an extract from the minutes of the investment committee meeting held on 3 June 2016. It's annexure 20.

DR DANIEL MATJILA: Ja.

ADV ALEXANDER ROELOFSE: Dr Matjila, this is an extract from the minutes of the investment committee meeting held on the 3 June 2016, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: I deals with Erin Energy.

20 **MR EMMANUEL LEDIGA:** Sorry, we're still looking at that page, it's not annexure 20 on our document. You said what, 6 June? 3 June?

ADV ALEXANDER ROELOFSE: 3 June 2016.

MR EMMANUEL LEDIGA: Okay, so it looks like 21 then, annexure 21. Okay, ja, we are here.

ADV ALEXANDER ROELOFSE: Thank you. These deal with the Erin

Energy transaction, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: Paragraph 1.3 sets out the background to the transaction, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: Then paragraph 1.4 refers to ERN, that we know is Erin Energy.

10 “ERN's operational cost and call on cash increased as its level of activity (build-up of resources) increased. Unit cash costs have, however, dropped as the fixed cost base was diluted by rising output. This resulted in a rising interest bill as ERN had to raise debt to fund the gap resulting from a shortfall in its targets.”

And then paragraph 1.5 says:

20 “ERN has, as such approached the PIC for financial support in the form of a 100 million dollar bank guarantee that will allow ERN to raise more capital to fund its growth strategy. The bank guarantee will allow the PIC to support the company without increasing its shareholding above the 30% threshold. The guarantee will have a tenure of three years from the date of issue and no cash will flow from the PRC unless ERN fails to pay the loans that it raises on the back of the guarantee. PIC will receive warrants to purchase shares of common stock from ERN for an amount equal to 20 million USD representing 20% of the amount being guaranteed by the PIC and the strike

price of those warrants will be ERN's closing market price on the NYSE, the New York Stock Exchange, on the date of the guarantee."

Can you just briefly sketch to us insofar as you're able to recall what led to this particular situation approximately two years after the listing of CAMAC on the JSE?

DR DANIEL MATJILA: Commissioner, shortly after concluding the transaction, successful listing of Erin Energy on the Johannesburg Stock Exchange, the oil price started to fall. In fact I think if my
10 memory serves me well it would have started falling around April or so of 2014, a sharp fall in that shortly after we concluded and at the same time one of the conditions that we've put here was that within six months of disbursement Erin Energy should have increased production by – to 7 000, should have hit 7 000 barrels of oil per day. Sorry, that's still 2014, the oil price was still holding quite well, close to 100 bucks at that point.

Unfortunately, they ran into technical problems already around September/October of 2014. The rig that was there that was supposed to drill, you know, experienced technical problems to a point where the
20 contract had to be cancelled. I think they completely removed it from site in January of the following year, 2015. And so they had to bring in a new rig to start – to complete the well.

Coupled with that, obviously there's no barrels that are coming through as planned, so they had to ask PIC for a waiver of the put option that we've given to them citing the fact that, you know, the

drilling problem was, you know, out of Erin Energy's control, it was CAMAC Energy's control at that time, so they'd requested us to suspend the exercise of the put or extend it by another six months whilst the new rig comes into drill.

I think the new rig managed to reach the oil somewhere around May or so in 2015 but already the oil price was beginning to fall very sharply. I think by mid-year the oil price would have fallen close to 60 USD per barrel at that point, but it was just a downward slope, slippery slope in the oil price without any commensurate production because
10 you would need a lot more production to make up for the revenues to be able to cover the running costs of the company, operational costs of the company.

So there was a serious stress in the financial – I mean, the operating costs or financial operability of the company and thus they approached the PIC for a guarantee of about 100 million dollars which they will use to then borrow from the banks to drill further oils to increase the production. That was the situation that they then found itself in.

CHAIRPERSON: So PIC's exposure at that stage was in dollar terms
20 about 100 million?

DR DANIEL MATJILA: That will be – yes.

CHAIRPERSON: In a form of a guarantee.

DR DANIEL MATJILA: Yes, so we had 270 that we have disbursed first on listing and then later on to ensure that they do produce, finalise the production after the new rig came on board but the cash flows

unfortunately were still strained anyway so they asked us for a guarantee so – to raise money again, so that’s additional 100 million, in other words, on top of the 270 that we’ve given, yes.

CHAIRPERSON: Just for record purposes, you mentioned that at first the barrels cost something like 100 bucks per barrel, I assume at this time it’s US dollars, the bucks that you are talking about is US dollars?

DR DANIEL MATJILA: I keep referring to the bucks, Commissioner, apologies. It’s dollars, yes. Apologies.

MR EMMANUEL LEDIGA: And that guarantee, do you know what
10 happened to it? I mean, obviously it was a guarantee the banks – did the banks lend the 100 million and what has happened to that guarantee?

DR DANIEL MATJILA: The guarantee was approved by the investment committee of the one that we are reading, I think it’s the – what date was it? The 3 June 2016, approved the guarantee and Mauritius Commercial Bank agreed to provide the funding.

Now that guarantee from PIC’s side, the money was held with Standard Bank, the banker of the PIC/GEPF in other words, ja.

So once that money was – I mean, the guarantee was
20 approved, Erin Energy was able to raise 100 million dollars from Mauritian bank but there were conditions to this loan.

The key condition was the – Commissioner, maybe I can read the resolution of the committee that approved the 100 million to make it easier. So:

“The committee resolved that the provision of 100 million

dollars bank guarantee to Erin Energy on behalf of Government Employee Pension Fund be approved and subject to the submission of the pricing of the guarantee, a percentage of the guarantee amount to the IC.”

That is the rate of the guarantee.

“Confirmation of the third party lender. The legal department should confirm that the legal process is correct of issuing this guarantee.

10 The appointment of an independent technical adviser to advise the PIC on the drawdown and the applications of the funds.

Confirmation that all the Security Exchange Commission requirements have been met.

Confirmation of the insurance, both political and non-political in place and what is covered under the particular insurance.

And the appointment of the CFO as an executive director on the board of Erin Energy.”

Those were the conditions.

ADV ALEXANDER ROELOFSE: Then insofar as the appointment of a technical adviser is concerned, can I refer you then to the extract from
20 the minutes of the investment committee meeting held on 6 October 2016?

DR DANIEL MATJILA: That’s correct.

CHAIRPERSON: It’s annexure 20, I think.

ADV ALEXANDER ROELOFSE: 6 October 2016. So this is an extract from the minutes of the investment committee meeting held on 6

October 2016, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: Paragraph 1.26.3 deals with the appointment of an independent technical adviser, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: And what does that paragraph state?

DR DANIEL MATJILA: The paragraph states that:

10 “Management explained that an independent technical adviser would have been costly. SacOil was engaged as a technical adviser due to their technical expertise in the field and their independence from Erin Energy. A number of Nigerian-based companies were considered as an option but the PIC was not comfortable with the independence of these companies. SacOil could further render the service to the PIC at no cost and will submit a proposal including curriculum vitae of individuals who will be involved on the project to the PIC to ensure transparency.”

ADV ALEXANDER ROELOFSE: So briefly what was the issue then regarding SacOil?

20 **DR DANIEL MATJILA:** We had recommended SacOil to be the technical adviser in terms of the approval of the investment committee for the 100 million, the other condition, so then the issue of independence was raised and we were explaining that an independent service provider will be extremely expensive.

Now SacOil is a company where they PIC has a significant

interest in and so we felt strongly that they will have the – will be able to protect the interest of the PIC as the technical adviser to a point where they can even identify an independent technical adviser on the PIC's behalf. That was the thinking around this.

ADV ALEXANDER ROELOFSE: And then if I can refer you to the document headed: Extract from the Minutes of the Investment Committee Meeting Held on 8 May 2018. Well, in fact, before I do that, was SacOil appointed as the technical adviser?

DR DANIEL MATJILA: Yes, yes, SacOil was eventually appointed.

10 **ADV ALEXANDER ROELOFSE:** And what happened after that?

DR DANIEL MATJILA: They performed the work. I think they appointed a Nigerian company, a local company called Petrovision to assist them on the technical side.

ADV ALEXANDER ROELOFSE: And then if I can refer you to the document extract from the minutes of the investment committee meeting held on 8 May 2018?

CHAIRPERSON: Is the date 8 May 2018?

ADV ALEXANDER ROELOFSE: Indeed, Mr Commissioner.

CHAIRPERSON: It's annexure 19.

20 **ADV ALEXANDER ROELOFSE:** Thank you, Mr Commissioner. So, Dr Matjila, this is an extract from the minutes of the investment committee meeting held on the 8 May 2018, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: Deals with Erin Energy, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: And what it – it records the transaction and then the provision of the guarantee, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: And then paragraph 3.4, it says:

“Erin Energy had drawn down in excess of USD 63 million from the debt facility provided by MCB.”

MCB is who?

DR DANIEL MATJILA: The Mauritian Commercial Bank.

10 **ADV ALEXANDER ROELOFSE:** In August 2017 the PIC upon recommendation of the technical adviser SacOil stopped Erin Energy's access to the funding as Erin Energy failed to meet the requirements as per the terms and conditions agreed to under the facility agreement. Can you just explain to the Commissioners, if you know, what that is about?

DR DANIEL MATJILA: My understanding is that at some stage – actually in the beginning any invoice that MCB has to pay had to be approved by the PIC through the technical adviser and so at some stage Erin Energy started invoicing MCB directly and demanding
20 payment and we were alerted to that and it was clear that there were certain invoices that were not part of the drilling process that Erin Energy was trying to get PIC to pay which we refused. We refused to pay.

ADV ALEXANDER ROELOFSE: So the situation was then that Erin Energy defaulted on its obligations under the loan facility from MCB, is

that correct?

DR DANIEL MATJILA: That's correct, that's correct.

ADV ALEXANDER ROELOFSE: Which resulted in MCB calling up the bank guarantee.

DR DANIEL MATJILA: Not at that stage yet, I think the only time that they called the bank guarantee is after Erin Energy filed for bankruptcy. So at this stage the PIC was refusing to pay because we needed full information on the invoices to ensure that they are for the work that they have been – that they are for.

10 And so when Erin Energy began to default on their obligation in terms of the agreements the PIC then held back the payments. Ja, held back the payments.

ADV ALEXANDER ROELOFSE: So paragraph 3.6 records that:

“On 26 April 2018 Erin Energy filed for voluntary bankruptcy under Chapter 11 of the United States code.”

DR DANIEL MATJILA: Ja. First – once we withheld payments, Erin Energy took PIC to court in the United States and nothing came out of that court process and I think they shifted now to the Federal Government was well to try to force the PIC to pay. They were citing
20 interference by the PIC in the operations of Erin Energy which we did not agree with.

At that point we then wrote letters to other shareholders requesting an urgent meeting so that we can discuss the situation of Erin Energy with the view of the recommending shareholders to make certain changes to the board and senior management so that we can at

least get a handle on the operations of the company. So that's what happened and then later on Erin Energy filed for bankruptcy.

But parallel to that, as that was happening, it came to our knowledge that actually Allied Energy was also taken to court by a subsidiary of ENI called Agip of Nigeria. Now our understanding is that the Allied Energy defaulted on payment to Agip of Nigeria for the 40% interest that Agip had sold to them.

We got to learn that they only paid about 100 million whilst there was another 200 million or so outstanding at that time. So all of
10 this information we were not aware of at the time of transacting and not even disclose in the prelisting statement at that time because that is significant, we should have picked up that, that there is something between the seller – because, Commissioner, we paid 270 million to CAMAC Energy and Allied for CAMAC to buy out Allied's interest so that CAMAC can own 100% of the operation. That's the relation, but we were not aware that Allied still owes ENI money for the 40% that they bought to take 100% control of the asset.

So ENI or Agip won a court case in London and our understanding is that then they went to operations and close off
20 everything about the same time, close off everything, so there was no cash flow to Erin Energy in other words because barrels were not moving or being offloaded and so they couldn't have any cash flows, they filed for bankruptcy at that...

ADV ALEXANDER ROELOFSE: If you have a look at the memorandum, dated the 11th of May 2018. It is towards the beginning

of the bundle. In paragraph 12, it says:

“During February 2018, it came to the attention that the PIC through an online newspaper article that Erin was involved in certain litigation instituted by a Nigerian Agip Exploration Limited...”

Is that correct?

DR DANIEL MATJILA: That is correct.

ADV ALEXANDER ROELOFSE: And that is the litigation that you have been referring to regarding the outstanding payment for the purchase price of EMI's 40%, the sale to Allied. Is that correct?

10 **DR DANIEL MATJILA**: That is correct.

ADV ALEXANDER ROELOFSE: And you say that judgment was given in favour of Agip which then resulted in the closure of the valve, so to speak, for Erin and Erin could not sell oil anymore?

DR DANIEL MATJILA: That is correct.

ADV ALEXANDER ROELOFSE: Thereafter, Erin filed for bankruptcy.

DR DANIEL MATJILA: That is correct.

ADV ALEXANDER ROELOFSE: What then happened in respect of the guarantee that the PIC had provided for the hundred million dollar debt - loan facility from MCB?

20 **DR DANIEL MATJILA**: Commissioner, at that time the Erin Energy had drawn down sixty three million. To there was a thirty four million outstanding. The Mauritius Commercial Bank then exercised its security. Called its guarantee and PIC had to pay to pay the sixty-three million. Sixty-seven million. Sorry, sixty-seven million, Commissioner. That was the amount that was drawn already.

ADV ALEXANDER ROELOFSE: And then if we go back to the extract from the minutes from the Investment Committee meeting, held on the 8th of May 2018:

“It is finally resolved that subsequent to the above discussions, the committee resolved that the PIC be in and is hereby authorised to step in and take MCB’s position as a lender to Erin Energy on the facility of a hundred million US dollars and settle the outstanding facility capital and interest amount to MCB and make every effort to have this facility repaid...”

10 **DR DANIEL MATJILA:** Ja.

ADV ALEXANDER ROELOFSE: Just what had led to that?

DR DANIEL MATJILA: Yes, this is now MCB calling its guarantee. So ...[intervenes]

CHAIRPERSON: Sorry. Which document are you looking at?

ADV ALEXANDER ROELOFSE: Sorry, Commissioner. This is one that we have dealt with before. It is the minutes of the Investment Committee meeting on the 8th of May 2018. So, the resolution at paragraph 3.11, Commissioners. Is that:

20 “The PIC be authorised to step in and take over MCB’s position as a lender. Settle the outstanding amount on the facility...”

And that is what occurred, Dr Matjila?

DR DANIEL MATJILA: That is what occurred. Yes.

MR EMMANUEL LEDIGA: The PIC... The guarantee. Was the PIC not supposed to pay the sixty-seven million dollars? Not the hundred million, because it only paid that.

DR DANIEL MATJILA: Sixty-seven. Yes.

MR EMMANUEL LEDIGA: Not hundred million?

DR DANIEL MATJILA: Not hundred million. Only sixty-seven. Which was the outstanding amount.

MR EMMANUEL LEDIGA: Ja, but the paragraph says here hundred million.

DR DANIEL MATJILA: I think it says, PIC is stepping in. So, that is ...[intervenes]

MR EMMANUEL LEDIGA: Oh, in total.

10 **DR DANIEL MATJILA:** In total, yes.

MR EMMANUEL LEDIGA: In total.

DR DANIEL MATJILA: Yes, Commissioner.

MR EMMANUEL LEDIGA: Yes, but the MCB wanted just the part paid by, you know, paid out, basically.

DR DANIEL MATJILA: That is correct.

MR EMMANUEL LEDIGA: The sixty-seven million the PIC has got to pay as part of the guarantee.

DR DANIEL MATJILA: That is correct.

MR EMMANUEL LEDIGA: Okay.

20 **DR DANIEL MATJILA:** That is correct.

MR EMMANUEL LEDIGA: Okay.

ADV ALEXANDER ROELOFSE: I do not have any further questions, Mr Commissioner.

ADV JANNIE LUBBE SC: Mr Commissioner, before we proceed. Is it a convenient time for the tea adjournment?

CHAIRPERSON: Definitely a convenient time.

[laughs]

CHAIRPERSON: We will adjourn until twenty five past.

COMMISSIONER ADJOURNS: (Tea break)

COMMISSION RESUMES:

ADV JANNIE LUBBE SC: Thank you. Mr Commissioner, I will briefly introduce the questioning and then my learned friend, Mr Monnabela, who is the counsel involved with the forensic team investigating this deal, will ask more detailed questions. Dr Matjila, you mentioned
10 earlier when we talked about Daybreak that this transaction was also introduced by Mr Shezi. Is that correct?

DR DANIEL MATJILA: That is correct. If I can be clear.

CHAIRPERSON: Just gives us time. [laughs] Somebody else is recording...

ADV JANNIE LUBBE SC: Okay.

MR EMMANUEL LEDIGA: Is that Mr Botha there?

[laughs]

CHAIRPERSON: Yes.

DR DANIEL MATJILA: Just to clarify, Chair. We were introduced to
20 Mr K Lavelle by Mr Sizwe Shezi.

ADV JANNIE LUBBE SC: Thank you.

DR DANIEL MATJILA: Yes.

ADV JANNIE LUBBE SC: Now, according to information in our possession, Mr Lavelle is a close friend of the President, Mr Zuma. Did you know that?

DR DANIEL MATJILA: We have read it in the newspapers and we have seen pictures of them together.

ADV JANNIE LUBBE SC: And he was also instrumental in the awarding of a honour doctor to Mr Zuma in 2011 in Texas. Did you know that?

DR DANIEL MATJILA: We read in the newspapers, Commissioner.

ADV JANNIE LUBBE SC: So, just to summarise then. In 2011, we know from newspaper articles and other information that Mr Lavelle and his friend were involved in a awarding of an honour doctorate in Texas
10 to Mr Zuma. In 2013, he was introduced to the PIC by Mr Shezi. Is that correct?

DR DANIEL MATJILA: That is correct.

ADV JANNIE LUBBE SC: In 2014, the PIC took 'n decision to invest two-hundred-and-seventy-million US into this company, Erin. Is that correct?

DR DANIEL MATJILA: That is correct. Camec Energy at that time.

ADV JANNIE LUBBE SC: Camec Energy. And for that investment they would get 30% shares.

DR DANIEL MATJILA: That is correct.

20 **ADV JANNIE LUBBE SC:** And the seat on the board and the seat on the Audit and Risk Committee of this entity. Is that correct?

DR DANIEL MATJILA: That is correct, Commissioner.

CHAIRPERSON: No. You nodded your head with regard to the seat on the board, Dr Matjila. Is it a yes?

DR DANIEL MATJILA: That is correct. It is yes, Commissioner.

ADV JANNIE LUBBE SC: And you initially represented the PIC on the board.

DR DANIEL MATJILA: That is correct. I was appointed to the board of Erin Energy in 2015.

ADV JANNIE LUBBE SC: And I believe later, Mrs Dudu Hlatshwayo who also testified here previously, then replaced you on the board.

DR DANIEL MATJILA: That is correct.

ADV JANNIE LUBBE SC: In 2016, there was the hundred-million US bank guarantee. Is that correct?

10 **DR DANIEL MATJILA:** That is correct.

ADV JANNIE LUBBE SC: And of that, there was a draw down by Erin of sixty-three million at the time when you stopped this facility?

DR DANIEL MATJILA: Ja. I think... It is sixty-seven, sixty-three or sixty-seven. Somewhere around there. Yes, total. I think it was ...[intervenes]

ADV JANNIE LUBBE SC: Sixty-seven, I think.

DR DANIEL MATJILA: Sixty-seven.

ADV JANNIE LUBBE SC: And...[intervenes]

DR DANIEL MATJILA: Million dollars.

20 **ADV JANNIE LUBBE SC:** Million dollars. And then in 2018, they filed for bankruptcy.

DR DANIEL MATJILA: That is correct.

CHAIRPERSON: Can I just quickly make sure that I have got the name of the person who replaced you on the board. Who was it?

ADV JANNIE LUBBE SC: Dudu Hlatshwayo.

CHAIRPERSON: Hlatshwayo.

ADV JANNIE LUBBE SC: Hlatshwayo, Mr Commissioner. Now, Dr Matjila. You know in the forensic financial world, there is a saying that: If it is too good to be true, it is too good to be true. As I understand your evidence. You paid two-hundred-and-seventy million US for shares valued at nine-hundred million US dollars. A huge discount.

DR DANIEL MATJILA: No, the value of the company at that time. The value of the assets were nine-hundred million dollars. So, 30% will then be two-hundred-and-seventy.

10 **ADV JANNIE LUBBE SC:** But you said, as I Understand it... Sorry, I misunderstood you there. But it was quite at a huge discount.

DR DANIEL MATJILA: Relative to the share price that was trading at that time.

ADV JANNIE LUBBE SC: Ja.

DR DANIEL MATJILA: I think we said that it traded at around one-fifty-three in dollars per share versus the zero point seven one ...[indistinct] one dollars per share that we were paying. Or seventy-one US cents, probably.

ADV JANNIE LUBBE SC: And the initial purpose of this investment in
20 Erin, was to acquire oil for the Republic of South Africa.

DR DANIEL MATJILA: That was exposure to get a direct exposure to oil producing assets. Not for South Africa. It is too small to make a difference. [laughs]

ADV JANNIE LUBBE SC: Yes. But ...[intervenes]

CHAIRPERSON: So, it was just a matter of investment?

DR DANIEL MATJILA: It is a matter of investment in oil. Oil, yes.

MR EMMANUEL LEDIGA: And there was no plan for them to import some oil into the country here?

DR DANIEL MATJILA: That would have been part, if production increases significantly.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: Yes. In fact, at some stage, once they start hitting ten thousand barrels per day, they were serving directly to Glencore. Because apparently, the kind of oil that they are producing
10 is commanding a reasonable premium relative to the other brands of good quality.

MR EMMANUEL LEDIGA: Yes, and Glencore would just trade it to other countries.

DR DANIEL MATJILA: Exactly.

MR EMMANUEL LEDIGA: Okay, all right.

ADV JANNIE LUBBE SC: But I further understood from you that, in hindsight, it now appears that they were not open and honest in the prelisting statement to the JSE.

DR DANIEL MATJILA: That is what we picked up from information
20 flow that there must have been a lot of things that were not disclosed to us.

ADV JANNIE LUBBE SC: And having spent, it seems to me, if I do the calculation, in excess of six billion in this investment. Not a single barrel of oil was exported to South Africa. Is that correct?

DR DANIEL MATJILA: I think six billion is a lot. Two-seventy. Let us

work on three-hundred-and-seventy million dollars.

ADV JANNIE LUBBE SC: If we take that R 14,00 exchange rate at the moment, we in excess of five billion. Close to six billion.

DR DANIEL MATJILA: Well, it depends. Somebody, two years from now, will be saying it is twelve billion.

[laughs]

MR EMMANUEL LEDIGA: It depends on the price ...[intervenes]

DR DANIEL MATJILA: If the rand gets to eighteen, twenty. This thing... You know.

10 **MR EMMANUEL LEDIGA:** Ja, ja.

ADV JANNIE LUBBE SC: But in hindsight ...[intervenes]

DR DANIEL MATJILA: So, let us talk about the US dollars. It was said three-hundred-and-seventy US dollars exposure.

MR EMMANUEL LEDIGA: Yes, yes.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: And it depends. I mean, you could have bought it at R10,00 to the dollar at that time, say.

DR DANIEL MATJILA: That could have been the exchange rate.

MR EMMANUEL LEDIGA: It could have been.

20 **DR DANIEL MATJILA:** I cannot remember exactly what it was at the time. Ja.

MR EMMANUEL LEDIGA: Okay.

ADV JANNIE LUBBE SC: My last questions, Dr Matjila. In hindsight, the only exact science there, I suppose. It was a very poor investment. Would you agree?

DR DANIEL MATJILA: It was a very poor investment. I agree.

ADV JANNIE LUBBE SC: My colleague, Advocate Monnahela will ask further questions. Thank you, Mr Commissioner.

ADV ISAAC MONNAHELA: Thank you, Mr Commissioner. Dr Matjila, I would like us to start with the guarantee that the PIC provided for Erin to obtain a loan of about one-hundred-million US dollars from Mauritius Commercial Bank. May I refer you to the extract from the minutes of the Committee Meeting, held on 6 October 2016? Mr Commissioner, my numbering is 19. I believe yours would be 20.

10 Yes, extracts from the minutes from the Investment Committee meeting held on 6 October 20106. Dr Matjila, you have testified that SacOil was appointed a technical advisor to the PIC. I want to refer you to paragraph 1.2.6.2 of that extract. It reads as follows:

“Committee members raised a concern that one of the conditions to the approval of the transaction was the appointment of an independent technical advisor with an arm’s length relationship to advise the PIC on the use of the funds.

SacOil, who was subsequently appointed as PIC’s advisor was not independent. SacOil is an operator and not a technical advisor in the
20 true sense of the word...”

Do you agree that SacOil was an operator and not a technical advisor, in the true sense of the word?

DR DANIEL MATJILA: That is what the minutes are saying, ja.

ADV ISAAC MONNAHELA: The next paragraph, 1.26.3. It says the following:

“Management explained that an independent technical advisor would have been costly. SacOil was engaged as the technical advisor, due to their technical expertise in this field and their independence from Erin Energy.

A number of Nigerian based companies were considered as an option, but the PIC was not comfortable with the independence of these companies.

SacOil could further render the services to the PIC at no costs and will submit a proposal, including curriculum vitae of the individuals who will
10 be involved on the projects to the PIC to ensure transparency...”

What do you understand that SacOil could further render services to the PIC at no costs?

DR DANIEL MATJILA: I do not know.

CHAIRPERSON: You were not part of the Investment Committee? Were you?

DR DANIEL MATJILA: I was part of the Investment Committee but I cannot remember what this meant at that time, Commissioner.

CHAIRPERSON: And your previous answer was that the minutes say so. What do you say? Where the paragraph before the last one. It
20 was just read. It says: SacOil is an operator and not a technical advisor.

DR DANIEL MATJILA: Commissioner, this is the minutes of the meeting. I might have been present, but when the committee says: Yes, this is how we feel about this organisation. That they are probably not a technical. And we agree in a meeting and it is captured in that

way. I am bound by that decision.

CHAIRPERSON: When SacOil was appointed, did you, yourself, now personally accept that they could act as technical advisors?

DR DANIEL MATJILA: The appointment of advisory and those kind of services, are done by the team and they then submit to the committee for approval. So I would not interfere with what, I mean, that part of their responsibility. So I will then get this as part of the Investment Committee and they will deliberate and decide on whether we... So that is the process. This is an Investment Committee meeting matter.

10 **CHAIRPERSON:** Does the Investment Committee not interrogate recommendations or reports?

DR DANIEL MATJILA: They would.

CHAIRPERSON: They would?

DR DANIEL MATJILA: They would interrogate.

CHAIRPERSON: Yes.

DR DANIEL MATJILA: The would interrogate. You know, Commissioner. I have a discomfort. That is why I am saying this. Because it now is going to look like this is my view and this is the decision of Dan Matjila. And I feel a little bit uncomfortable with that.

20 That is why I am saying. These are the minutes of the committee where I was present and I am bound by the decision and not that I have a different view or I become the owner of this. In other words.

CHAIRPERSON: You are unable to say you had a different view or you have a different view to what the IC said?

DR DANIEL MATJILA: No, I agree with the IC. Yes.

CHAIRPERSON: I assume as technical advisors, SacOil would have received a fee?

DR DANIEL MATJILA: I would assume that there must have been a fee arrangement. I have not seen that documentation, relating to how much they are going to be paid for the services.

CHAIRPERSON: That was out of your hands now?

DR DANIEL MATJILA: There is also a possibility that they would have proposed to me, subject to PIC approval, that I would normally sign payments in the ordinary course of my work. So when the IC has
10 agreed and there are payments to be made, depending on the size, it may come to the office as well, for approval. But I do not remember signing off on invoices to pay SacOil in this instance.

CHAIRPERSON: I assume there would be a record, somewhere in the PIC of this?

DR DANIEL MATJILA: Absolutely.

CHAIRPERSON: Yes.

DR DANIEL MATJILA: Absolutely.

CHAIRPERSON: Yes, okay.

ADV ISAAC MONNAHELA: Thank you, Mr Commissioner. Dr Matjila,
20 but I believe you agree with me that it was agreed that SacOil would be paid a fee?

DR DANIEL MATJILA: Yes, I... That is what I am saying. That there must be a contractual arrangement where fees are going to be paid.

ADV ISAAC MONNAHELA: And actually, there is. And you are the person that signed that contract on behalf of the PIC. And I refer you

to Annexure 1 of the documents that you have been referring to.

DR DANIEL MATJILA: Ja, that would have been recommended to me for signature.

ADV ISAAC MONNAHELA: By whom?

DR DANIEL MATJILA: By the team? They... I mean, there must be a memo that says, we have now appointed a ...[indistinct], because this is an approval that we look for a technical advisor and the team would have given me a memo to that effect.

ADV ISAAC MONNAHELA: May I refer you to Clause 1 of that
10 agreement? That is on the first page. It deals with the scope of work. At paragraph 1.1. which is Phase 1, Due Diligence Phase. It says the following:

“The purpose of this phase is to provide conclusions and quantified assessment of the technical risk to the satisfaction of the PIC in their consideration of providing financial support to Erin in respect of the project.

The technical advisor shall prepare a final due diligence report, based upon a comprehensive evaluation of the scope of work in phase 1...”

And then it proceeds to set out what the technical advisor will
20 do.

“a. Is review of the reserves, evaluation and production assessment...”

I will not go to the detail, through the detail. And then:

“b. Review process facilities, pipeline network, the back option, metering and tank farm or host;

- c. Review of financial projections and economic model; and
- d. Check on product team, contracts, permits and approvals are in place for successful execution of the project...”

Do you know if SacOil performed those duties?

DR DANIEL MATJILA: Commissioner, I would not know. Those reports would be with the team that deals with – that monitor the projects. I do not monitor the project.

ADV ISAAC MONNAHELA: But based on what is stated in the minutes, that I referred you to, that SacOil was not a true technical
10 advisor. I mean, was not a technical advisor in the true sense of the word. Do you think SacOil would have been able to perform their duties set out at A?

DR DANIEL MATJILA: Commissioner, my understanding is that SacOil was appointed. They produced this letter which covers the full work that they need to deal with or to produce for the PIC or to do for the PIC. And they were free to appoint a technical advisor alongside. Then if they do not have that expertise. That was my understanding.

ADV ISAAC MONNAHELA: Will you agree with me, that the fees set out in this in this agreement, included performing those duties listed at
20 A?

DR DANIEL MATJILA: I would imagine so, Chair.

ADV ISAAC MONNAHELA: Mr Commissioner, may I just ask for a moment?

CHAIRPERSON: [No audible reply]

ADV ISAAC MONNAHELA: May I refer you to Clause 4 of that

agreement which deals with the fees. Mr Commissioner, may I just be allowed to look for the relevant part of the Clause.

CHAIRPERSON: [No audible reply]

DR DANIEL MATJILA: Mr Commissioner, while he is reading. Can I just help here? I do not deal here with the finer details of contracts. My colleagues will tell that this is what the service provider is going to do and recommend that they go ahead and do and procure those services. I sign off on that and they have to monitor the performance according to this contract. They can only report to me that so and so is
10 complying or not complying if they require my intervention.

But I would not even know the finer details of this contract, because I am advised by people under me, who have the technical expertise and know-how on how to advise me. Can you imagine running a two, three trillion fund where I have to look at each detail of every little correspondence or contract that comes through the PIC? That is humanly impossible.

I would not be able to do that. I am supported by people who have that technical expertise. Whether it is legal or it is technical or it is ESG Team or whoever. Those are the people who will support me
20 with the technical expertise and make recommendations to me. If it is something that is not within their delegative of authority, they will pass it onto me. Or else, they can deal with it in terms of the delegation. Now, I am not going to be able to answer some of the technical questions around this contract here, unfortunately.

What I know, is that, we have appointed the technical advisor

that can be not independent or dependent but we have said to the committee that we believe that they can do the job and even though, this independent or the lack of independence that they are talking about, is because SacOil is owned by the PIC on behalf of the GEPF. It owns a significant amount. And really, the reason why we use them is because we know them. They are a subsidiary.

They will be able to look after our interest versus someone else that we do not know. From the Nigeria or whatever. That was the thinking, and the IC was okay with that. They did not say stop. They
10 said proceed. On that basis. That is why we left them to continue with the process. So, I have a challenge that I am going to be asked technical questions, as if I deal with the work of somebody way, way below me. You know. I would not be able to see that as a CEO.

CHAIRPERSON: That is fair enough. You will answer questions that you are able to answer. Those that you are not able to answer, you simply say: No, that is dealt with. As you have mentioned. It is dealt with by the committee or by someone else. And so on.

DR DANIEL MATJILA: And, Commissioner. It will be useful if technical people are called to say, did they deliver on this, in terms of
20 the... Because I would not know that they have dealt with these matters. Have they have been paid these amounts of whatever it is. Because I am not in a position. But anyway, let us hear what the question is. Let me not preamp what I am going to be asked.

MR EMMANUEL LEDIGA: Yes, yes. Ja. This is different. Because typically, we would get the technical people first, you know, to deal with

the issues and then maybe perhaps you deal with the bigger ones, you know. So this was brought differently.

DR DANIEL MATJILA: I appreciate that Commissioner but if the Commissioner can understand that I was the CEO and not somebody dealing with you know technical work or finer details of the work really otherwise it will be unfair you know if I get asked questions and I'm unable to answer I look like you know ... (intervention)

MR EMMANUEL LEDIGA: We get it R2 trillion is a big company so you can't know all the stuff there.

10 **CHAIRPERSON:** The only thing of course here in this instance if you look at let's say paragraph 16 in general and the signatures that follow, one of them looks like your signature.

DR DANIEL MATJILA: Yes.

CHAIRPERSON: Do you confirm that that's yours?

DR DANIEL MATJILA: Yes, yes that's right.

CHAIRPERSON: And usually that's where the questions come in that you signed the document and you're supposed to know what is in the document. So probably that's where the questions come in, I'm not sure but as I said earlier if you are able to answer a question answer it,
20 if you aren't able to say so.

DR DANIEL MATJILA: Okay Commissioner.

CHAIRPERSON: Yes Mr Monnahela?

ADV ISAAC MONNAHELA: Yes Mr Commissioner that's exactly where I was going that Dr Matjila signed the agreement and we know what the Latin maxim *caveat subscript* or says that he would have familiarised

himself with the contents of the agreement.

CHAIRPERSON: It would be expected that he familiarised himself, whether he did or not is another matter but you can carry on with asking questions.

ADV ISAAC MONNAHELA: Commissioner it sounds good in Latin but practically it doesn't work that way, it doesn't work that way. Can you imagine what the President of the country would be having to do as well because I'm sure he signs a lot of stuff, you know but he's supported by technical people, very technical and you can understand he can't
10 come back and say but I didn't sign it because he's the one with signing powers, the one with authority to bind the organisation to certain things.

CHAIRPERSON: To use a term that you used, the buck stops with you it appears.

ADV ISAAC MONNAHELA: It depends on the nature and size of the buck. Some bucks may be outside my delegated authority so ... If I may just add to what Mr Commissioner has said Dr Matjila was the CEO as he has said in terms of PFMA the was the accounting authority of the PIC>

20 **DR DANIEL MATJILA:** Commissioner these are assets under management PFMA doesn't apply to assets under management, we're not contracting for corporation, we're contracting on behalf of the clients.

CHAIRPERSON: Alright let's see how it goes, you may continue Mr Monnahela.

ADV ISAAC MONNAHELA: Okay Dr Matjila you testified that SacOil appointed Petrovision to assist them on the technical side, what did you mean by that?

CHAIRPERSON: Maybe what kind of assistance would they give?

DR DANIEL MATJILA: Commissioner?

CHAIRPERSON: What kind of assistance would they give to the technical team?

DR DANIEL MATJILA: This will be things that SacOil wouldn't be able to do, you know the technical aspects of whether it's, I mean I don't
10 know they check production, they check how much has been drilled and there are all kinds of technical report that needs to be looked at and if SacOil is not able to do that they will be advised by the technical team you know accordingly.

ADV ISAAC MONNAHELA: And that may include the duties set out at paragraph 1.1A of the agreement?

DR DANIEL MATJILA: I'm sure because we haven't restricted SacOil to specific deliverables, they will do all the work around the transaction, are you talking about – yes.

ADV ISAAC MONNAHELA: Mr Commissioner the paragraph that I was
20 looking for earlier and that I wanted to refer to in the agreement is paragraph 5 cost and expenses. It reads as follows:

“The fees detailed in clause 4 do not include:

- 1) Costs or disbursements made on behalf of the technical advisor to third parties in connection with the agreement and;

2) Out of pocket of expenses incurred by the technical advisor in the execution of the scope of work.”

Dr Matjila do you accept that Petrovision, which was appointed by SacOil, was a third-party to this agreement?

DR DANIEL MATJILA: Yes.

ADV ISAAC MONNAHELA: Do you also accept that according to clause 5 the PIC would be liable for Petrovision’s fees?

DR DANIEL MATJILA: That’s how I understand it.

ADV ISAAC MONNAHELA: And if SacOil was not able to perform their
10 duties set out at paragraph 1.1A and they had to be performed by Petrovision the PIC would be liable to pay Petrovision’s fees?

DR DANIEL MATJILA: That’s my understanding of the contract.

ADV ISAAC MONNAHELA: Then if I may refer you to paragraph 4 of the agreement he sets out the fees that were due to SacOil or that would be due to SacOil.

DR DANIEL MATJILA: Yes, yes.

ADV ISAAC MONNAHELA: And if the PIC were to pay SacOil those fees and also pay Petrovision for its services it would be paying double, do you agree?

20 **DR DANIEL MATJILA:** Double for?

ADV ISAAC MONNAHELA: If, let me put it this way, if SacOil was not to perform the duties set out at paragraph 1.1A then it would not be entitled to the fees relating to those duties?

DR DANIEL MATJILA: It’s hard to answer that question because I don’t have full information on what was done and therefore fees were

paid double, you know I don't have that analysis but this may be possible you know.

ADV ISAAC MONNAHELA: Yes so if SacOil did not perform, and this is just an assumption, if SacOil did not perform those duties in paragraph 1.1A and it was paid and Petrovision performed them and it was paid that will mean that the PIC paid twice but it only received the service from only one service provider.

DR DANIEL MATJILA: Commissioner I don't know the actual because now we are working on assumptions and I'm sure there is information
10 that says who was paid what and therefore we don't have to make even assumptions here because we can say that this is how much Petrovision was paid and it as double and no work was performed.

CHAIRPERSON: But I assume the PIC would get one invoice and that would be from whoever they contracted which is SacOil isn't it?

DR DANIEL MATJILA: Most probably I would assume because this will be the principal you know in terms of this transaction, in terms of this appointment.

CHAIRPERSON: And one would expect that if SacOil paid some money to whoever they contracted to do the job that amount would be included
20 in their invoice not necessarily showing that this amount we paid to someone else?

DR DANIEL MATJILA: I don't know but under normal circumstances the PIC can request the full invoices even to third parties to make sure that, because if it's going to pay for third parties it has to see, it says here that the PIC will be liable for certain third-party payments you

know so naturally they will want to know what they are paying for as well.

ADV ISAAC MONNAHELA: Mr Commissioner we will check that and we will get back to the Commission if we get the information on the issue.

DR DANIEL MATJILA: Commissioner maybe if I can ask what is in dispute here, have we appointed SacOil illegally or what is, I'm trying to get to you know so?

CHAIRPERSON: I wouldn't know or we wouldn't know Doctor, I suppose that will come out in the questioning from counsel.

10 **ADV ISAAC MONNAHELA:** Mr Commissioner I'm just trying to establish whether the interest of the PIC were protected as they were supposed to be.

CHAIRPERSON: You don't have to answer now, let's wait for the next question.

ADV ISAAC MONNAHELA: Mr Commissioner may I just ask for leave to hand up two copies of the risk report relating to the guarantee, I've already made copies available to Dr Matjila and his counsel.

CHAIRPERSON: You want us to give it an annexure number or exhibit number or shall we simply add it to the annexures that we've got here?

20 **ADV ISAAC MONNAHELA:** Yes Mr Commissioner.

CHAIRPERSON: And so that will be annexure 24.

ADV ISAAC MONNAHELA: Dr Matjila evidence before this Commission is that Erin was technically insolvent when the PIC provided the guarantee, do you agree with that?

DR DANIEL MATJILA: I'm not sure Commissioner.

CHAIRPERSON: Well you're not sure whether you knew or you're not sure whether they were in fact technically insolvent?

DR DANIEL MATJILA: That's right, that they were technically insolvent.

ADV ISAAC MONNAHELA: Okay may I refer you to paragraph 6 of the risk report that you have before you or we may start at paragraph 5.1 which reads as follows:

10 "We are of the view that the prospects of Erin Energy Corporation management successfully turning the company around are largely dependent on the ability to raise additional capital and restructuring the liabilities and the support of shareholders. We therefore recommend that the PIC investment committee approve the PIC to provide a 100 million US Dollars bank guarantee to third-party lenders to reiterate shareholders support to Erin Energy Corporation."

Then paragraph 6.1 which is the only one that I will refer to under 6 reads as follows:

20 "Subject to the following Erin's management successfully reaching agreement with creditors not to exercise their rights to place the company into receivership."

Do you know if that condition precedent was fulfilled before the guarantee was approved?

DR DANIEL MATJILA: I would assume so.

ADV ISAAC MONNAHELA: So can I take it that you are not sure?

DR DANIEL MATJILA: I'm not sure because the IC is approved and

there are people who then implement the decision of the investment committee. I think people who are better placed to tell us what happened because I'm part of IC we say the risk is recommending something to the committee now the committee either accept or does not accept. What the committee's final decision will come with a resolution that says do this subject to this and that and that, things that are not in the resolution means that the Committee will have been comfortable with. Now perhaps we need to have look at the resolution to see if this concern that is raised by risk is part of that, if it's not part
10 of that it means the committee must have been comfortable that this deal can go ahead without this clause. This is a risk committee, it's a risk recommendation to the investment committee, we need to understand it that way.

ADV ISAAC MONNAHELA: But the reason they said they made paragraph 6.1 a condition precedent was to protect the interest of the PIC, do you agree?

DR DANIEL MATJILA: That's correct, that's correct.

CHAIRPERSON: Do I understand you correctly that the IC could for instance say we're not worried about 6.1 and therefore it won't be in
20 the resolution?

DR DANIEL MATJILA: They may say we are not worried about 6.1 because it's adequately dealt with elsewhere, they wouldn't just push it aside Commissioner, there has to be a mitigants to any of the risks that are highlighted there for them not to make, to find themselves in the resolution then it means there is a risk mitigating you know strategy

around that.

CHAIRPERSON: But most of the time I suppose the IC would accept the recommendation if it is happy with the transaction?

DR DANIEL MATJILA: Absolutely.

CHAIRPERSON: Yes.

DR DANIEL MATJILA: Absolutely.

ADV ISAAC MONNAHELA: So if the IC ignores the recommendation by risk wouldn't it be exposing the PIC to the risk identified?

DR DANIEL MATJILA: Commission I don't believe IC would have
10 ignored the risk you know or any issue that is raised by risk. If it's not finding itself in the resolution then it means there must have been a mitigating strategy around that particular risk that make them comfortable that it can go ahead you know so there is no way that risk can, I mean IC can ignore a risk that's not being managed at all.

ADV ISAAC MONNAHELA: Commissioner we will try to find a copy of the minutes of the IC relating to the approval of the guarantee.

DR DANIEL MATJILA: I think we do have the approval of the guarantee somewhere.

CHAIRPERSON: Do you need some time?

20 **ADV ISAAC MONNAHELA**: Yes Mr Commissioner.

ADV ALEXANDER ROELOFSE: If I may be of assistance Mr Commissioner, it's the very last document, it's the extract from the minutes of the investment committee on the 23rd June 2016, I think it should be annexure 20 or 21 in your bundles, that's the minutes of the investment committee meeting that approved the guarantee.

CHAIRPERSON: Did you say 3rd June 20?

ADV ALEXANDER ROELOFSE: 16.

CHAIRPERSON: Yes it is 21.

ADV ALEXANDER ROELOFSE: Thank you.

ADV ISAAC MONNAHELA: Mr Commissioner I appreciate my learned friend's assistance. Dr Matjila may I refer you to paragraph 1.23 of that extract. Will you agree with me that the condition precedent that was recommended by risk does not appear in the resolution?

DR DANIEL MATJILA: Yes it's not in the resolution.

10 **ADV ISAAC MONNAHELA:** May I refer you to paragraph 1.19 of the same document, it reads as follows:

“The risk department highlighted that negotiations in terms of the conversion of the loans are ongoing. The biggest conversion will be the allied loan. Allied is owed 135 million US Dollars and they have agreed to convert 100 million US Dollars into equity. The terms of the funding as well as the drilling contract are critical. The PIC should appoint an independent technical advisor tasked with providing quarterly feedback to the PIC on the company's performance. Erin should provide the PIC with warrants for a total consideration of 20 million US Dollars at the strike price of Erin's closing market share price on the New York Stock Exchange on the date of the guarantee.”

20

Will you agree with me that the same condition precedent that I referred to it also does not appear on paragraph 1.19?

DR DANIEL MATJILA: Commissioner it shows that the investment committee is comfortable with the process around this issue because they are saying negotiation in terms of conversion of loans to equity is ongoing so which means that the process of curing the balance sheet to ensure that Erin Energy is not insolvent is ongoing and therefore the committee is comfortable I would assume that's why you don't see this coming up in the resolutions.

ADV ISAAC MONNAHELA: Is there any reason why that condition precedent was not stated in the, if you know, in the resolution?

10 **DR DANIEL MATJILA:** Well I don't know I'm just trying to explain what I think the reason why it's not finding itself in the resolutions is because this conversion process is ongoing and therefore IC is comfortable that you know the balance sheet is being cured to ensure that it's not insolvent, that's my understanding of the situation.

CHAIRPERSON: And therefore that that paragraph of the resolution is not necessary?

DR DANIEL MATJILA: Is not necessary Commissioner, that's what it means.

20 **ADV ISAAC MONNAHELA:** Okay may we then move to the equity investment of 270 million US Dollars. You testified that two conditions precedent were imposed one being or that the amount would be released in two tranches one after listing or secondary listing of Erin on the JSE and two, the second one after the completion of the drilling of Oyo-7 well and it being able to produce a certain number of barrels per day. Do you know if those conditions precedent were fulfilled?

DR DANIEL MATJILA: Commissioner the listing happened on the 24th February 2014 ja I think that's yes and the conditions of the barrels as I've explained earlier were not met because the rig that was drilling had problems and it had to be demobilised and removed from site, replaced with another one which came in around January 2015 I think. Then that drilling process started, oil was only able to flow around the end of May 2015. So in that process Erin Energy or KMAC Energy requested the PIC to relax that condition so that the money can flow to complete the well because they had already spent quite a bit of money on the rig and
10 my understanding is that they had now claimed for insurance, I don't know what became of that claim against the rig that failed to function so then KMAC Energy to relax the put option and the conditions to allow them to drawdown on the rest of the facility to complete the well. PIC agreed and indeed the well was completed and I said production started around the end of May. So the 7 000 barrel required was exceeded, it was exceeded albeit late not as per timetable.

ADV ISAAC MONNAHELA: Were you aware at the time of the investment that KMAC which subsequently became Erin was technically insolvent?

20 **DR DANIEL MATJILA:** No Commissioner.

ADV ISAAC MONNAHELA: So you were not aware of KMAC's third quarter filing with the New York Stock Exchange in which they made it clear that they were technically insolvent?

DR DANIEL MATJILA: No I was not aware.

CHAIRPERSON: Would that be something that you would expect risk

to do, risk committee?

DR DANIEL MATJILA: And the team, technical team responsible for monitoring the investment in KMAC or Erin Energy. There are portfolio managers, this asset it's assigned to someone in the equities team to look after and they will report, their duty is to make sure that they keep us apprised on the performance of the company.

CHAIRPERSON: And you don't recall whether they mentioned anything about the technical insolvency?

DR DANIEL MATJILA: I don't recall, I don't recall that Commissioner.

10 **ADV ISAAC MONNAHELA:** May I refer you to the memo dated 16 September 2013 in page 16.

DR DANIEL MATJILA: Sorry you were saying memo of?

ADV ISAAC MONNAHELA: 16 September 2013 it's number 3.

CHAIRPERSON: And you're referring to page?

ADV ISAAC MONNAHELA: Page 16 of the memo Mr Commissioner.

CHAIRPERSON: Which says KMAC Financials?

ADV ISAAC MONNAHELA: Yes Mr Commissioner. According to that document didn't KMAC's liabilities exceed its assets or current liabilities exceed its current assets?

20 **DR DANIEL MATJILA:** Where are we reading Commissioner I'm still trying to get to that page here?

ADV ISAAC MONNAHELA: That's 2012, column 2012 page 16 of the memo.

DR DANIEL MATJILA: Page 16 of the memo. No, that's 18. No, this is the right one.

ADV ALEXANDER ROELOFSE: Okay.

DR DANIEL MATJILA: So you're talking about current assets right?

ADV ISAAC MONNAHELA: And current liabilities. The last one Mr Commissioner, to your right.

DR DANIEL MATJILA: I think the JSE was here and they explained this that current liabilities versus current assets, it's just a cash flow issue. It doesn't mean that they are insolvent. I think the JSE was here explained, that's why they were able to even approve the pre-listing statement. Otherwise they wouldn't have approved the pre-
10 listing statement.

MR EMMANUEL LEDIGA: Would you call that illiquidity issue?

DR DANIEL MATJILA: Yes, illiquidity issues, a short term illiquidity issues.

MR EMMANUEL LEDIGA: Yah, would that be called illiquidity issue?

DR DANIEL MATJILA: Exactly.

MR EMMANUEL LEDIGA: Oh okay.

ADV ISAAC MONNAHELA: And Erin never recovered and it ended up filing for bankruptcy.

DR DANIEL MATJILA: Erin never recovered never recovered because
20 the oil price simply fell out of bid. Their revenues are dependent on the oil price, when the oil price drops and you can't generate or produce more barrels to counter that, you are in a big problem. So that's what happened to Erin Energy.

ADV ISAAC MONNAHELA: There was also a dispute on the assets, don't you think that also affected?

DR DANIEL MATJILA: The dispute on the assets we were not aware of but ja the assets, the issue of assets we were not aware of until there was a court ruling.

ADV ISAAC MONNAHELA: That was when, last year?

DR DANIEL MATJILA: Yes.

ADV ISAAC MONNAHELA: And after you became aware that there was a dispute regarding the assets, the PIC wanted to take over the operations.

DR DANIEL MATJILA: Operations of Erin Energy. Remember we are
10 Erin Energy level, we don't know the underlying contracts between Allied and ENI or Agip at that point.

ADV ISAAC MONNAHELA: I'm talking about the operations of Erin Energy in which the PIC invested.

DR DANIEL MATJILA: I don't understand Commissioner.

ADV ISAAC MONNAHELA: Dr Matjila, in 2018 you became aware that Erin had filed for bankruptcy.

DR DANIEL MATJILA: Yes, Commissioner.

ADV ISAAC MONNAHELA: Thereafter the PIC came up with the Erin Energy rescue plan and strategy.

20 **DR DANIEL MATJILA:** Commissioner, that was a proposal based on the once the PIC got to understand what the issues were and who the players were, we were invited to the stakeholders meeting a combination of creditors as well as other shareholders to see how Erin Energy could be saved and we were part of those discussions and we thought the biggest that seems to have- to be in a stronger position

advantage was Zenith Bank who had a claim on the assets and who were prepared to work with the PIC to exercise their rights and make PIC a new investor in a much cleaner asset going forward.

So that was the proposal on the table, it was never executed if I remember it was still at thought. It was still an idea.

ADV ISAAC MONNAHELA: And the proposal was that the PIC shall invest a further 250 million US dollars.

DR DANIEL MATJILA: Commissioner, I don't know about that. All I know is that there was a 33 million dollars that were still outstanding in
10 the- from the 100 million only 67 million was spent. And the idea between PIC and Zenith was that the asset could be restarted and the government of Nigeria will be quite happy to have both Zenith as a banker providing the necessary debt and an equity investor in the PIC alongside an Nigerian operator would be a better solution to save company going forward.

That was the idea and in the plan I remember quite well, the restart would have cost a small amount of money if I remember quite a small amount of money but once the restart succeeds, then it will require funding to get other wells into production and then in that way the
20 company would be saved. That was- I don't know about the 250, even if it was there it must just have been an idea that was being debated at that time.

ADV ISAAC MONNAHELA: May I refer you to an extract from the minutes of the Draft Board Meeting held on 16 November 2016 and that's how it's worded. Mr Commissioner, my numbering is 11, yours

will be 12.

MR EMMANUEL LEDIGA: 16 October, is that what you say?

ADV ISAAC MONNAHELA: 16 November 2016.

MR EMMANUEL LEDIGA: No, our 12 is the 31st of October 2014 so let's check.

ADV ISAAC MONNAHELA: That's where reference is made to the 250 million US dollars. May I just read out paragraph 5.1.2 thereof Mr Commissioner?

DR DANIEL MATJILA: What's the date again?

10 **ADV ISAAC MONNAHELA:** 16 November 2016.

DR DANIEL MATJILA: Okay.

ADV ALEXANDER ROELOFSE: Commissioners, bear with us, ours is not numbered. We have to page through these things from backwards to front.

MR EMMANUEL LEDIGA: Even us here. Even us are bad.

ADV ISAAC MONNAHELA: Mr Commissioner, I just realised that there is a problem with the numbering even in one of the documents that we have.

20 **CHAIRPERSON:** We have now gone through our documents twice and we can't find the 16 November one. Did you say 16 November?

DR DANIEL MATJILA: Commissioner, can I just request maybe that this date be checked?

MR EMMANUEL LEDIGA: I don't think we have that Annexure actually here because we gone through twice.

ADV ISAAC MONNAHELA: It will be handed up.

CHAIRPERSON: That will be Annexure 25.

ADV ISAAC MONNAHELA: I wanted to refer to paragraph 5.1.2 of that document Mr Commissioner. It reads as follows ... (intervenes)

DR DANIEL MATJILA: Before you read Commissioner, I think this date of 16 November 2016 needs to be checked because there's no chance that Zenith would be in a position to exercise in 2016. It's only in 2018 that after they file for bankruptcy and therefore they are not exercising their security. I think it may be incorrect, Commissioner.

ADV ISAAC MONNAHELA: Mr Commissioner, I agree that it is
10 incorrect and it is clear from the paragraph itself that the date should be 16 November 2018 because there is a sentence that reads as follows;

The terms of the agreement will be negotiated on 26 November 2018.

DR DANIEL MATJILA: And I don't think they would have called me after saying I must leave the organisation that I must come and negotiate and take responsibility for the 250 dollars proposal, I'm sorry Commissioner.

CHAIRPERSON: Well, I'm also looking at the heading of the document, Extract from the minutes of the Draft Board Meeting held on 16
20 November. Draft Board Meeting, what is that?

ADV ISAAC MONNAHELA: That should be a mistake like a mistake was made on the day.

ADV ALEXANDER ROELOFSE: It was practice run, Mr Commissioner.

CHAIRPERSON: But can you this document if there are questions around it?

ADV ISAAC MONNAHELA: No, I just wanted to point out that the proposal was about the PIC investing another 250 million US dollars.

CHAIRPERSON: You can ask the question.

ADV ISAAC MONNAHELA: Dr Matjila, do you agree that the proposal that you refer to included the PIC investing approximately 250 million US dollars as stated in paragraph 5.1.2?

DR DANIEL MATJILA: Commissioner, this is a discussion. I don't see any resolution that says PIC must invest. It's still just a proposal.

ADV ISAAC MONNAHELA: That is exactly what I called it, a proposal
10 not a resolution.

CHAIRPERSON: Would you know if the board dealt with this issue?

DR DANIEL MATJILA: Commissioner?

CHAIRPERSON: Would you know if the board dealt with this matter?

DR DANIEL MATJILA: From what I hear the PIC took long and the federal government of Nigeria decided to take the asset.

ADV ISAAC MONNAHELA: By the government of Nigeria taking the asset, do you agree with me that the PIC has lost the money it invested in Erin?

DR DANIEL MATJILA: Yes.

20 **ADV ISAAC MONNAHELA:**

Those will be my questions, Mr Commissioner.

DR DANIEL MATJILA: Commissioner, we also have to remember that you can't get everything right in investments. There will always be bad ones. As long as you learn from the bad ones not for them to repeat again but there'll be new bad ones for some other reasons so that's

investment. But as long as you have a well diversified portfolio similar to the GEPF one, you can withstand some of these losses. Ja.

CHAIRPERSON: Yes, you suffer losses and you gain in others.

DR DANIEL MATJILA: You must gain more in others to really make up for the mistakes you make in others. That's the nature of investments.

CHAIRPERSON: But what's the total loss here, 270 plus 63, is that it or am I wrong?

DR DANIEL MATJILA: That will be, yes, it's 270 plus 63 that will be around 333 which as a percentage of a portfolio because we deal with
10 billions and trillions, it's 0.0 I won't be- it's a fraction of a percentage of the portfolio. A very small fraction but Commissioner, it doesn't mean it's insignificant and therefore it mustn't be looked at closely and understand what went wrong so we can learn and tighten- PIC can tighten the processes going forward, that is important.

CHAIRPERSON: For someone like me, it is a lot of money particularly that it is in US dollar terms.

DR DANIEL MATJILA: Commissioner, if we tell you well some other monies that we've made out of good decisions, it dwarfs what you are seeing here in terms of losses. We did 20 billion on Anglo alone.

20 **CHAIRPERSON**: Is that it, Mr Monnahela?

ADV ISAAC MONNAHELA: Yes, Mr Commissioner.

ADV JANNIE LUBBE SC: Mr Commissioner, perhaps we should be reminded what Dr Matjila just said. I believe one of the motivational speakers ones said that fail means first attempt in learning. So perhaps that is what we have here. But that's the evidence on Erin,

we're ready to proceed but perhaps it's an opportune time to have the early lunch ... (intervenes)

CHAIRPERSON: But there are still some questions.

ADV ALEXANDER ROELOFSE: I would like to ask some questions Mr Commissioner. Subject to the Commissioners asking questions, I don't know whether there are any questions from them.

MR EMMANUEL LEDIGA: Ja, I've got some questions but we still have- we could have more questions because we were not aware that we'll be dealing with this (inaudible Erin) today, alright. So I'll just ask
10 broad ones and then possibly maybe tomorrow we can ask further questions.

The first one is we heard someone from the PIC who said that I just cannot recall the person's name but they mentioned that he was at Stanlib and they had seen this transaction before and that transaction then was done. But he says it was seen by Stanlib and Stanlib said, no they couldn't do it. But then why- he was surprised when he arrived at the PIC that this was done.

ADV ISAAC MONNAHELA: Mr Commissioner, if I may be of assistance, it was Mr Jeff Tshikhudo.

20 **MR EMMANUEL LEDIGA:** Yes, Tshikhudo. Yes.

DR DANIEL MATJILA: Ja, it was Jeff Tshikhudo. Ja, at the time, I remember, at the time when we were busy with the guarantee we asked him to be part of the team that was going to do due diligence and ensure that everything is in place as I've said for us to be able to provide this guarantee from the premier perspective because this was

supposed to be for drilling and only drilling.

So he wrote a report to tell us that he was indeed approached at that time, they declined to invest at the time, in Erin. I think it was on the I think additional fund raising after the first tranche of 30% was done, they were trying to raise additional money in the JSE, they didn't participate.

MR EMMANUEL LEDIGA: Ja, just to be clear. So he said that it seems that the PIC didn't have the skills to invest in this business. So it's why maybe at the beginning the work done was not to the best of
10 ability and all that.

DR DANIEL MATJILA: I think the challenge with investments is that you'd always as an investor you're not necessarily going to have all the things you need all the expected so you'll rely on others. In the PLS once it's produced its reliance placed on the sponsors that have done the work, they've checked all the numbers so that those that do not have the technical expertise can still invest on the basis of the quality of the information that they get, that the regulator would have said it's fine, you can make a decision out of this.

So that's basically what it is, we didn't necessarily have strong oil and
20 gas exploration / kind of a person internally but reliance was on the quality of numbers as per PLS.

MR EMMANUEL LEDIGA: Then the next one is about corporate governance maybe dishonestly and other things. I mean you mentioned that the 200 million dollars owed by CAMAC I think to Allied and so to Agip. You guys didn't know about and all that.

DR DANIEL MATJILA: Yeah.

MR EMMANUEL LEDIGA: I mean what is that, is that poor due diligence or it's just poor corporate governance from the CAMAC side or is that just normal dishonesty and all that? Ja.

DR DANIEL MATJILA: It's the biggest challenge if someone hides information from you that is material. Then you know you have a serious problem. That material information was included in the PLS, it maybe the listing wouldn't have proceeded any way so the fact that that information was hidden from us is obviously dishonestly of the highest
10 degree.

MR EMMANUEL LEDIGA: But how do you I mean and I know it has happened in for companies here putting money in African whether it's in mining and other places. How does the PIC guard against those kinds of issues? It's trusting your partners, your business partners and everything. I mean locally here that thing is less but how do you guard against such issues, poor corporate governance, dishonesty like this?

DR DANIEL MATJILA: I think it's a big challenge I mean if you dealing with people that are dishonest, they will defraud you. I don't know how you detect that, it will be quite hard to detect even if you sit on the
20 board.

We may remain undetected I mean Steinhoff is a nice example of how spectacularly you get it wrong when you are being defrauded. And it's organised in a way that's quite difficult for even auditors to detect, then you know you have a serious problem.

Same with VBS if very important organisation or role players that do

not warn you of certain dangers and their responsibility is to do just that, to warn you against dangers and they don't do it, you are in trouble.

MR EMMANUEL LEDIGA: But don't you look at these countries and say in Nigeria we'll belong to the business chamber and they would know that this person is good, this one is not good. I mean how do you, you go to check your business partners isn't it? You got to know the business partner so doesn't the PIC actually look at belonging to this business chambers in these countries so that other business
10 people would know that this person, you cannot touch with a barge pole?

DR DANIEL MATJILA: I think those are things that can be put in place going forward. I'm sure they can refine the way they do business and the level of intelligence can be improved significantly to help the PIC manage his risk better. Ja.

MR EMMANUEL LEDIGA: And then the final question is just a broad one on transactions and its part of our terms of reference.

And tell me if I'm wrong here. Sort of it appears that transactions can go wrong okay, there are many that go right so let's
20 you know. But those that go wrong, it could be at the beginning meaning poor due diligence and the other things. And it could be during that particular transaction as we said with Daybreak it was corporate governance and management. And then it could be at the exit stage as we saw with the bank that there was some agreement which was not signed properly or there were terms which were ...

(intervenes)

DR DANIEL MATJILA: VBS, yes.

MR EMMANUEL LEDIGA: Yes. So in this transaction, where did the PIC go wrong and what could have been done better? Where do you think because it was a total disaster?

DR DANIEL MATJILA: Mm, in the end.

MR EMMANUEL LEDIGA: In the end, yes. What could have the PIC done better at the beginning or was it a DD problem or carrying out the project. And even now it's in bankruptcy but the security seems not to
10 be there in the exit stage.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: Am I right in sort of putting those three ports maybe?

DR DANIEL MATJILA: It's hard because I mean in all cases if you look at Daybreak, for example, which we explained earlier on to say right at inception once the deal was approved, we failed to check that all the governance structures are in place to accept the money and therefore it show that that money goes and the company is run properly.

In Erin / VBS we've seen serious challenges of I would say the legal
20 risk not being managed properly. Legal risk, there was a little bit weak in terms of in depth understanding of what the exposure we have legal risk exposures we are taking in this company. Those transactions that have happened and not concluded properly that we didn't know about came to bite us in the end. So there has to be a deeper level of legal risk assessment there.

We thought using the JSE as a way of improving on scrutiny and therefore better quality of numbers signed off by the regulator will give us comfort that this is an asset that we can invest in but they seem to have done the same with the JSE anyway because the PLS was approved on the basis of the information that they gave to the JSE and therefore that filtering process didn't catch unfortunately if I may use those words. So it's a variety of things to think about that one has to be aware of.

10 Legal risk on exit we find ourselves without the security on the 350 million contract facility at VBS whilst we thought this was reinvest actually, it was not supposed to be part of assets of the bank. But in the execution of the legal or legal agreements these things sneak through and then we sign off and that's unfortunately what happen at a level of dishonesty that it's clear there.

So if your colleagues don't protect the organisation against such legal risk as well, they become less- then you are exposed to a serious problem.

MR EMMANUEL LEDIGA: Yes. Just to check, the legal department on these transactions, was it the PICs legal department or you outsource
20 this to sort of good technical legal firms that deal with oil and gas and all that?

DR DANIEL MATJILA: Normally that's what should happen, if we don't have expertise internally or dealing with complicated technical matters of oil and gas, they will identify a company to assist in drafting such contract in advising how it's done.

MR EMMANUEL LEDIGA: But do you know ... (intervenes)

DR DANIEL MATJILA: I don't know even in this instance ...
(intervenes)

MR EMMANUEL LEDIGA: Ja, do you know if it was done?

DR DANIEL MATJILA: If it was done that way, I don't remember. I only know that in the end when we were fighting that we then appointed a legal firm to assist us but internally I'm not sure, I haven't checked the contract as to who was actually advising us.

MR EMMANUEL LEDIGA: Ja.

10 **DR DANIEL MATJILA:** On the technical aspects, legal aspects of the transaction at that point.

MR EMMANUEL LEDIGA: But you would agree that for such highly technical material you probably might need an outside counsel law firm to look at this?

DR DANIEL MATJILA: Absolutely, absolutely. I think also I – look, I don't want to say – we have to rely on the JSE. I mean it's done us well over time, it's just one or two instances where, you know, for some reason PLS are not a true reflection of the actual, you know, and I'm sure the investors also need to up the game from their side in terms of
20 being given an ability to interrogate certain things a lot deeper rather than complete reliance on the JSE to say they'll do all the work and get sign off from competent or reputable and JSE approved service providers to give comfort in the PLS, so that sort of challenge. We've just relied hundred percent on the PLS as the document that we can make decisions on.

MR EMMANUEL LEDIGA: Yes, and can you see, you know, why the PLS, you know, in Ayo too it was an issue, you know, that even if you have a PLS maybe you must do your own DD, your own full DD somehow?

DR DANIEL MATJILA: That's correct. I think we'll probably discuss that as part of Ayo in terms of the learnings, you know.

MR EMMANUEL LEDIGA: Yes, yes.

DR DANIEL MATJILA: Ja, ja.

MR EMMANUEL LEDIGA: Alright. Ja because even the JSE actually
10 when they were here, they mentioned that they were not – you know, those risk sections in PLSes, I mean you go to the US, I mean the risk sections are the biggest in the PLS, you know? And the JSE said they were looking at that, you know? Would that help, you know?

DR DANIEL MATJILA: It will help because I think disclosure is more important, I think the JSE was clear to say the PLS or even the prospectus, it's supposed to be a document of good quality with full disclosure of material things that can happen to the company that will have a material impact on the investor or investor's investment in the company, you know.

20 So if you are compelled to produce a risk statement that is comprehensive enough and coupled with disclosure of accurate information, that should help the investor to make a much more informed decision but if those things are absent, then there's a serious problem for an investor.

And also players on the JSE will start questioning whether it's

a safe place, you know, which, as I said, it's been the best in terms of quality, it's just that there has been those who are able to massage their numbers, you know.

MR EMMANUEL LEDIGA: Yes, I was worried because I was on one of the listing committees of the JSE so this like worries me that how could things go through without checking them. So it's a worry.

DR DANIEL MATJILA: So, Commissioner, I've always trust you there.

MR EMMANUEL LEDIGA: Ja, I think I'm done. Ja, thank you.

CHAIRPERSON: Adv Roelofse, is there something that you want to
10 say?

ADV ALEXANDER ROELOFSE: Thank you, Mr Commissioner, just briefly. Dr Matjila, you were referred to this contract with SacOil as technical adviser that you signed, is that correct?

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: And you were referred to SacOil's duties in terms of that contract, the scope work set out in paragraph 1.1.

DR DANIEL MATJILA: Yes, Commissioner.

ADV ALEXANDER ROELOFSE: As well as the other paragraphs. Now
20 you were also then asked about the fees which were payable for the work and it was suggested to you that there might be a situation where a double fee is paid where the technical adviser, SacOil is getting paid in respect of the monthly retainers that it is entitled to in terms of the agreement but it is not actually rendering the work which is in fact rendered by another party for which the PIC would also have to pay, is

that correct?

MR EMMANUEL LEDIGA: That's correct.

ADV ALEXANDER ROELOFSE: You were asked whether there would be a double payment in that respect and the stated aim of the questioning was that the line of questioning was to make sure that the PIC was being protected, do you remember that?

DR DANIEL MATJILA: I remember.

ADV ALEXANDER ROELOFSE: Now can I just refer you to the first paragraph dealing with fees of this agreement in paragraph 4 and can I
10 just ask you to read that for us please?

DR DANIEL MATJILA: Number 4: Fees:

“Fees. In accordance with the terms and conditions of the agreement entered into between PIC and Erin pertaining to the financial support to be provided by the PIC to Erin, Erin shall be liable to pay any and all ancillary costs and expenses reliably(?) incurred by PIC including the fees payable pursuant to this clause 4 for which such payment shall be made on a quarterly basis.”

ADV ALEXANDER ROELOFSE: So in fact it appears that the PIC
20 wasn't paying the fees, Erin would be paying the fees or was responsible for payment of the fees.

DR DANIEL MATJILA: That's correct.

ADV ALEXANDER ROELOFSE: And read the second clause please?

DR DANIEL MATJILA: “Accordingly, in respect of the services to be provided by the TA in terms of this agreement, the PIC shall

pay the TA on a quarterly basis such fees that the TA incurs during each quarterly period for the duration of this agreement in respect of the services.

Provided further that the PIC shall be entitled to the reimbursement of such fees in terms of this clause 4.”

ADV ALEXANDER ROELOFSE: I just want you to stop there please.

DR DANIEL MATJILA: Okay.

ADV ALEXANDER ROELOFSE: So from the first paragraph it appears that Erin is liable for the fees. From the second paragraph it appears
10 that the PIC is entitled to a full reimbursement of all the fees including the fees in clause 4.

DR DANIEL MATJILA: That’s correct, Commissioner.

ADV ALEXANDER ROELOFSE: In your view would that protect the PIC satisfactorily?

DR DANIEL MATJILA: Absolutely, it would.

ADV ALEXANDER ROELOFSE: Then it was suggested to you that the technical adviser might not do all the work itself and that there would be separate costs incurred in respect of a third party that the technical advisor had engaged in order to do that work itself and that in that
20 sense there might a double payment.

So can I just refer you to the clause dealing with costs and expenses, number 5 on this page.

DR DANIEL MATJILA: I’m there, Commissioner.

ADV ALEXANDER ROELOFSE: Alright, just read it for us please?

DR DANIEL MATJILA: Number 5:

“Costs and expenses. The fees detailed in clause 4 do not include costs or disbursement made on behalf by the TA to third parties in connection with this agreement.”

ADV ALEXANDER ROELOFSE: I just want you to stop there. So it was contemplated in terms of this agreement that there might be costs and disbursements made to third parties in connection with this agreement?

DR DANIEL MATJILA: Yes.

ADV ALEXANDER ROELOFSE: And those costs and disbursements
10 were agreed to be separate to the monthly retainers that the TA would get in terms of clause 4 above?

DR DANIEL MATJILA: Yes.

ADV ALEXANDER ROELOFSE: And ultimately all of that was for the account of Erin and the PIC would be entitled to reimbursement for all of those costs.

DR DANIEL MATJILA: That’s correct.

ADV ALEXANDER ROELOFSE: Was there any further protection in your view that the PIC needed in respect of this particular contract?

DR DANIEL MATJILA: But then this was sufficient in my view.

20 **ADV ALEXANDER ROELOFSE:** No further questions, Mr Commissioner.

ADV JANNIE LUBBE SC: Mr Commissioner, with your leave, I know I’m out of turn but I think to conclude there’s one important document that I must raise with Dr Matjila. It’s an extract from the minutes of the board meeting held on 21 February 2014. In my package number 13 –

it's not going to help you, Dr Matjila. I'm actually going to assist the Commission, I think it's 12 – but perhaps I can read it to you.

CHAIRPERSON: Okay.

ADV JANNIE LUBBE SC: It's an extract from the minutes of the board meeting held on 21 Feb 2014. It's Mr Madavo, Portfolio Manager and Mr Nesane, Legal, joined the meeting. A report on CAMAC. It is clear from this document that there were serious reservations from the PIC board regarding this investment. In 1.1.7 it is recorded:

10 “Directors questioned PIC's view on family-owned businesses and the application thereof. Management explained that the key difference between Adcock Ingram transaction and the character transaction was the way in which the business was operated from a governance point of view.”

1.1.8: “The rationale behind CAMAC's willingness to sell at a discount and not command at a premium was everything was going well was questioned. It was explained that CAMAC was an EMP company and was in the process of raising funds to realise value. PIC as a long term investor was their preferred investor.”

20 1.1.9 It was stated that PIC could not repudiate the fact that this was a risky investment especially because of the nature of the business.”

Then the SacOil example is mentioned and it says:

PIC has also instituted clear conditions precedent as far as the flow of money was concerned to ensure that the money would

be spent for the intended purpose.

Management was based on the size of the investment requested to negotiate at least two board seats.”

Which never happened, we know. And then important:

“After a lengthy discussion on the allegations made in the media...”

Where the PIC was warned not to invest in this entity.

10 “...PIC’s responses to the media and PIC’s approach to investments, it was stressed that the board should rely on management’s integrity.

The board could not take over that responsibility.

Management should, however, keep the board abreast of its activities on an ongoing basis.”

It would just seem that all the reservations that the board expressed at that meeting materialised later. Would you agree?

DR DANIEL MATJILA: That’s the nature of investments, you know? You can’t know. You can have a feel, you can have a view, you know?

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

20 **CHAIRPERSON:** I’m still trying to find this document that you were reading from. So it’s an extract from the meeting of what date?

ADV JANNIE LUBBE SC: February 2014, Mr Commissioner.

CHAIRPERSON: February 2014. Then it must be here. Right.

ADV JANNIE LUBBE SC: We undertake to have this probably arranged – we’ll have a proper copy also for my colleague and Dr Matjila during

the lunch adjournment.

MR EMMANUEL LEDIGA: Just a question, another question, you know, from me. The oil and gas sector is a huge sector on the continent whether it's in Angola, Nigeria, I think Kenya now and others and the PIC tried to make an attempt to get into the sector but things haven't sort of worked out. What is the PIC doing about this, I mean, do they want to get back again or is something that, you know, the PIC's hands were burnt and they're all sort of scared away from this because it's a big sector that, you know, one will think the PIC would want to get its
10 hands around.

DR DANIEL MATJILA: I think we tried, we have some scars, big scars, for that matter. SASOL has got bigger scars and they are supposed to be experts in this field, you know, so I think my colleagues, when I left, were doing extensive research around this, you know, in the long term, do we really want to be players in this or is the world changing so fast that fossil fuel will be a thing of the past and therefore, you know, managed exposure or reduction of exposure into other things that are more cleaner may be the best option in the long term.

I think for GEPF in the long term, cleaner portfolio, it's a lot
20 better than show fresh scars at a point in time, you know, it may be, you know, not such a great idea.

I think there are other alternatives, you know, sources of energy at play here. I would say PIC probably stick to what you have for now or what you've lost and move on and do other things that are going to be around 15 years, 20 years from now that will benefit the

fund in the long term with a cleaner footprint.

MR EMMANUEL LEDIGA: Yes because I was thinking about, you know, Tesla, you know, like electric cars and all that, that maybe the oil sector will suffer from that but I was not sure.

DR DANIEL MATJILA: Ja, it will be around – I think the big players that are there will still be there but small ones will probably find it very difficult because, you know, big firms are changing, they are becoming also aware of climate change and they want to have a portfolio that also contributes to what's, you know, stopping of emissions or building
10 a cleaner portfolio in the long term, it's the way to go.

MR EMMANUEL LEDIGA: Thank you, thanks.

CHAIRPERSON: Which of your clients would have been involved here, GEPF or...?

DR DANIEL MATJILA: GEPF, mainly, GEPF.

CHAIRPERSON: What was their attitude and I know that you had a mandate or rather the PIC had a mandate to invest, I think, what was it, 5% of something?

DR DANIEL MATJILA: Yes, I think shortly after investing they were concerned about newspaper articles that were coming out and
20 criticising the investment and we engaged with them and I think they were okay but not necessarily happy with the investment. I think Mr Sithole was here, he just said it was a terrible investment. I agree with him. It was not a great investment. I think the timing was less than perfect, you know, when you get in at 100 and the oil price three, four months later, it's down to – it has halved and continuously falling in the

manner, you know?

There were lots of small guys that – other small companies that were taken out because of this. Lots of them actually that simply folded because of the low oil price.

MR EMMANUEL LEDIGA: Do we say that, I mean, is it right saying that the price, there was a time in 2014 it was like 140 dollars per barrel and then in 2017 it went to 30 dollars, around January 2017, is that correct?

DR DANIEL MATJILA: I remember – ja, around the time when we
10 concluded a transaction and during the listing it was trading around 103 and it peaked at 106 and stayed there for a while but once it started falling it was like – ja, it just fell down to 27.

MR EMMANUEL LEDIGA: 27, is it, ja?

DR DANIEL MATJILA: Ja, I think by the end of 2015 it was trading at around 27 at the lowest.

MR EMMANUEL LEDIGA: 27, ja. That's a huge, it's a huge fall, ja.

CHAIRPERSON: Okay, shall we take the break now?

ADV ALEXANDER ROELOFSE: Can I ask one further question, Mr
Commissioner? I don't want to delay you but I just want to ask Dr
20 Matjila just to comment on one aspect.

Dr Matjila, this is just another scenario where a spectacular fall in the price of something affects the investment as happened with Steinhoff and as happened with other investments, is that correct?

DR DANIEL MATJILA: That's correct, Commissioner

ADV ALEXANDER ROELOFSE: And just at the time of taking these

investments, I mean, should the spectacular falls in prices be foreseen and modelled in or not or what?

DR DANIEL MATJILA: I think, Commissioner, most of the time when we do sensitivity analysis we will depend on historical information. Say, you know, this is the probability of falling by 25%, 20% and so on and do scenario analysis based on that and never think about it, 2-Sigma event where they say what is an extreme case and therefore there's no business because – and what is the probability of that happening? You know, if you can see the sensitivity that there's no
10 way that the company will survive the question is going to be what is the probability and you say but this is once in a while, in a blue moon, and then therefore it may not happen and you pray that it doesn't happen and when it happens you have a big problem in your hands. But again, in the context of a well-diversified portfolio you still have a cushion as long as you don't put all your eggs in one basket, as they say, you know? Ja.

The same with S & S Refinery, we were in there, we thought we've best (indistinct), just more than half and we couldn't get the oil, you know, the feed stock at the right price and cash flows in the
20 company and then it was history.

MR EMMANUEL LEDIGA: Just a quick one. Do you think that if oil price stayed at 100 dollars per barrel could have saved the company? I mean, it looks like it had different problems versus the oil price. Do you think it could have helped? It could have helped but do you think it could have saved the company?

DR DANIEL MATJILA: I believe it – I think I believe it could have helped if it stayed at 100, that could have helped because remember it managed to get to 10 000 barrels per day.

Even at 7 – I mean, it survived at 2 000 for a long time, you know, 2 000 barrels or so, you know, so a higher oil price would have helped but more fixing the technical problems as well and drilling new wells would have been at the, you know, heart of getting it sustained over a long time, you know?

I think we can't run away from the fact that there were also
10 technical deficiencies in the company that needed to be addressed and when I was in the board of the company I raised that quite vehemently to say they need to sort out the risk management processes, project management, which oil companies are about project management all the time, you know, and if you don't manage those properly you'll be out of business in not time.

MR EMMANUEL LEDIGA: Yes and if your rig is not working then, I mean, you can't produce, isn't it?

DR DANIEL MATJILA: Then you have a problem.

MR EMMANUEL LEDIGA: You can have an oil price which is a 1 000
20 dollars but if your rig is not working you can't produce.

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: You must take the oil out of the ground.

MR EMMANUEL LEDIGA: Exactly.

CHAIRPERSON: Right, Dr Matjila, we're done with this one, Erin, and I

think we'll be moving next to what Ecobank?

ADV JANNIE LUBBE SC: Correct, Mr Commissioner.

CHAIRPERSON: Ja, but Dr Matjila, just remember that my colleague, Ms Marcus, is not here and there might be further questions tomorrow in respect of this one. Okay? What time shall we come back?

ADV JANNIE LUBBE SC: Shall we adjourn till quarter past two?

CHAIRPERSON: Quarter past two. We'll adjourn until quarter past two.

INQUIRY ADJOURNS

10 **INQUIRY RESUMES**

ADV JANNIE LUBBE SC: Mr Commissioner, we are ready to proceed. We are on page 185, paragraph 543, dealing with Ecobank Transnational Incorporated.

CHAIRPERSON: Just to remind you again, Dr Matjila. You are still under oath.

DANIEL MATJILA: (s.u.o.)

DR DANIEL MATJILA: Yes, Commissioner. Thank you, Commissioner. May I proceed? Commissioner, I am on Ecobank Transnational Incorporated, paragraph 543:

20 "In his statement to this Commission, Mr Alto Sadie, makes spurious and false allegations against me in my capacity as the former Non-executive Director of Ecobank Transnational Incorporated, representing the PIC.

I have no idea what I have done to him to justify this attack on me. I do not know him. I have not met him before. All I know is that he was

dismissed from Ecobank Card Division.

As a PIC Nominee Director on ETI, all my director's emoluments are paid directly to the PIC. I did not receive a cent from ETI. I have not even travelled once at ETI's costs to enjoy the first class ticket benefit. ETI comprises of a very strong shareholders, alongside the PIC, namely Nedbank, Qatar National Bank, International Finance Corporation, who are represented on the ETI Board.

I have indeed fought for governance changes at ETI, shortly after joining the board, in order to preserve the PIC's investment.

- 10 I am proud to say that ETI Board is the most professional and diversified and represented to Pan African Bank.

The additional investment in the form of capital support from shareholders, was done through board resolutions to shareholders. In particular, major shareholders.

The performance of ETI reflects the tough economic environment that the continent has gone through in the past five years.

The board and management team have put very strong strategies to position the bank to benefit handsomely when the economic environment improves.

- 20 The bank has turned a corner and is making profits. I have no doubt that it will deliver on the promise.

The stock is tightly held with only a small free-flowed and hence we will down significantly because of negative sentiment but on very thin volume.

I think Mr Sadie should be encouraged to raise complaints he has with

the relevant authorities in Togo as ETI is based there...”

ADV ALEXANDER ROELOFSE: No further questions, Mr Commissioner.

ADV JANNIE LUBBE SC: Dr Matjila, I have just a couple of questions to ask. On the latest that I have checked the share price of Ecobank is now about fifty percent down since the investment.

DR DANIEL MATJILA: That is correct.

ADV JANNIE LUBBE SC: You are confident that it will recover?

DR DANIEL MATJILA: I am confident that it will recover. They are
10 now making profits after a very long time. I think the weak issues that they have not paid dividends and dividends are very critical for shareholders in the continent.

ADV JANNIE LUBBE SC: With regard to director’s fees earned at Ecobank. We have checked your statement and it is correct that all director’s fees earned in your capacity as a representative of the PIC on the board have been paid to PIC. Can I just check with you? When you travel there to board meetings, did they not pay for your travel?

DR DANIEL MATJILA: It is part of... Yes, they do pay for travel. The
20 travel that I am referring to was just an extra pack where they allow directors to travel anywhere in the world first class with their spouses.

ADV JANNIE LUBBE SC: That you have never used. You say.

DR DANIEL MATJILA: That I have never used.

ADV JANNIE LUBBE SC: With regard to Mr Sadie. He testified here that he was in a situation of a Whistle-blower at the time. And it is correct as you have stated that he was dismissed from the Card

Division of Ecobank, but he has been cleared lately of any wrongdoing and he is not being reinstated, but that is the situation. But that is a side issue. You do not have to answer that. The last matter I would like your comment on. You know in the investigations, we came across the fact that you were involved in litigation with the former Group CEO of Ecobank, Thierry Thanoh. Is that correctly pronounced?

DR DANIEL MATJILA: Thierry Thanoh.

ADV JANNIE LUBBE SC: Thanoh. Can you briefly tell the Commission what it was about?

- 10 **DR DANIEL MATJILA:** Commissioner, I am reluctant to go into issues because this was a court process in Ivory Coast and the parties have agreed that any decision will be confidential. But there were lots of governance challenges within the PIC. I mean, the ETI Board at the time. I will call it ETI for short.

So, those challenges resulted in involvement of authorities, regulators and eventually the board was cleaned-up and a new board was put in place. And in the process, unfortunately, we had to part ways with Mr Thanoh and he instituted a litigation against Ecobank and myself and all of those were dealt with by the bank because I was the
20 director of the bank at that time.

ADV JANNIE LUBBE SC: Yes, that is what I wanted to find out. Did you in your personal capacity or the PIC on behalf of you, did they pay any money or fees with regards to that litigation?

DR DANIEL MATJILA: No, the PIC has not paid any monies to the litigation.

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

MR EMMANUEL LEDIGA: Okay, I have got a couple of questions here. The first one is just a broad one and I will come to specific ones. Just in terms of the PIC investment in Ecobank. When was that and how has the share price sort of progressed? And were corporate governance challenges, what were those? Just if you could give us a brief timelines and events around there. In terms of the share price, corporate governance issues. You know, you mentioned the oil price.

10 You know. Nigeria and the business issues also there.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: Just briefly.

DR DANIEL MATJILA: I will try. It is a difficult question now. You know. Normally, those things are well – properly answered by the analyst who is responsible for Ecobank because they will be in their portfolio. So they literally have to be on top of what is happening there. I think, if my memory serves me well. We invested in Ecobank around 2012. And we invested an amount of two-seventy. I cannot remember the figure.

20 **MR EMMANUEL LEDIGA:** Around two-fifty.

DR DANIEL MATJILA: Around two-fifty million dollars. At the time, we subscribed for shares at eight US cents per share. And that gave us almost nineteen percent of shareholding in the bank. This was before Nedbank which had a convertible instrument at that time, which they had put in earlier. You know. Before they could exercise that.

But they would subsequently exercise that convertible and then diluting PIC down to about thirteen percent at the moment. I think we are somewhere around, slightly above thirteen percent. You know. Or the PIC. I keep on referring to we. You know. At the time. [laughs]

MR EMMANUEL LEDIGA: Yes, yes.

DR DANIEL MATJILA: Yes, so that was the amount that we invested. Two-fifty million. And then I was appointed to represent the PIC on the board of Directors of Ecobank at that time. Immediately, upon on conclusion of that transaction... In fact, a few – I would say, a few
10 days or so before consummating the transaction, we learnt that Ecobank had just bought Oceanic Bank.

That was the time when a lot of banks were going under in Nigeria, in particular. Following the collapse of the oil price. And so the economy was not in good shape. A lot of banks were folding. Ecobank, Nigeria bought Oceanic Bank. And it became a significant bank in size in the economy. And the process of integrating that into Ecobank was a minefield. I must say. You know. That is probably where the problems of Ecobank emanated from. You know.

So, unfortunately, our entry point was when this thing was
20 consummated and we did not get a chance to review, whether this is something that we need to proceed with or not. But we were convinced that it is something good for the bank to grow and so on. They will clean up the balance sheets over time. But that literally took forever to achieve. And the performance of Ecobank, Nigeria was negatively affected by that.

Even, I think, they only managed to get it right in the past year or so. That for the first they seem to be breaking even and getting closer to profitability, but it's been quite a difficult period. So the governance challenges at that time. I think it pointed towards the board that was almost, I would say... there were a lot of friends in the board, if I were to put it that way, simply. You know.

So then immediately after concluding the transaction, if I can take you back there, the CEO decided to retire. The then CEO, Mr Ekpe and Mr Thanoh was appointed into the bank. I joined the board.
10 Then I found challenges there. You know Some of these issues were raised by regulators around, I would say, conflict of interest in the board.

You know, some of the directors holding shares in the board, having funded them with a margin loans and some of the transaction in the, you know, were almost creating conflict situations. So there were a lot of things that were not cosier. But we have discovered them afterwards, unfortunately. Once I was in the board. And that was the start of the fight around fixing the governance and trying to get a board that is representative.

20 That has lots of independent directors. Because I recall. Some of the directors that were there, were one or so was from a bank that had just gone under and they were sitting on the board of Ecobank. And so, you know, in South African it never happens, because the regulator is very strict around who sits on the board of a bank and so on and so forth.

But I guess, because Ecobank was a holding company and not a bank per se. The banks were the underlying investments or affiliates underneath, but itself, it was not. Although, we were trying hard to be regulated like a bank, eventually. In our reporting and in our conduct at that time. There was a lot of attempt to make it look like a bank. Even though it was not necessarily a bank but just a holding company.

So those challenges, governance challenges, you know, culminated in the CEO having to leave the bank. And through interventions of certain regulators, the ...[indistinct] of Nigeria. The
10 Commission Banque in Ivory Coast and many other regulators, you know, there was a push from regulators that the board changes.

And this would be led by the biggest shareholders to restructure the board. Put together a board that is representative across the different regions, where Ecobank is operating. East, West, Central Africa, South Africa and also the right directorship from major shareholders that were put there in order to drive. Not only the interest of the shareholders, but also the bank as well. You know.

So in the process of parting with the ways with the CEO, he then lodged his litigation and then it was eventually settled by the
20 bank, you know, in an amicable way. The share price underperformed because of various reasons. First, the balance sheet. Some of the things that we have discovered. How Nigeria was financing some instances. Certain instruments that were putting there and a lot of other margin loans that were used to try and prop-up the share price. It seems. You know.

So, the integration of Oceanic Bank which took forever and took a lot of capital out of Ecobank. Other affiliates that were not doing well. For example, the Kenyan one which was hit by interest rates in a big way. I think they took position, serious position, in interest rate and that risk unfortunately did not pay off and it cost the company capital.

And rationalisation of the bank as well. Because it was just too much. It being in thirty-three countries or so. Proved to be quite a challenge because some of the countries are small and you have got
10 lots of them and the cost of capital in some of those countries would be much higher than the return on equity that you are supposed to get out of the bank. So, a lot of mis-match. And so, that restructuring needed to happen. You know. To clean up to a point where the bank is able to now produce the returns or the profits.

Which am told, you know, just before I left the bank, it was already in a profitable situation and gearing up, you know, to be a lot of more profitable. The share price does not represent a value, in my view. Because, as I have explained. It is tightly held. Very little trades.

20 So the share price would not necessarily reflect, you know, the real value in the bank. I think it is now closer to three US cents, if you convert the... I think it is fifteen Naira, at the moment. Divided by 365. You get closer to three cents or so. You know. So that is where the share price. It has fallen by quite a lot.

MR EMMANUEL LEDIGA: Yes, from eight cents, I think.

DR DANIEL MATJILA: From eight cents to that amount. Ja.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: But I am confident. I think it has now weathered the storms. They were in the process of trying to list a portion of Nigerian assets. They did a great job by listing a portion of Ivory Coast assets. Ecobank, Ivory Coast.

MR EMMANUEL LEDIGA: Okay. Ja, okay. No, that is fine.

DR DANIEL MATJILA: Ja, ja. It has done well. I think they have sold about thirty percent to the market. So they would probably want to do
10 the same with Nigeria, once it becomes profitable. So that it can release more capital and hopefully the share price will respond very soon.

MR EMMANUEL LEDIGA: Okay. All right. But then given... I mean. Thanks for that. But given the fact that these challenges were there. I mean, did the PIC do enough due diligence, you know, when it entered this bank?

I mean, what was the risk report saying about this? Because it looks like there were huge problems in governance and that when you compared them to South African banks, like a Nedbank or so. Those
20 would be like two different management and systems and everything.

DR DANIEL MATJILA: Ja, I think... I can understand the governance challenges were there, but the biggest, biggest problem really, was Ecobank, Nigeria. You know. Once it got integrated or bought Ecobank – Oceanic Bank. That is where the most of the biggest headache came from. And simultaneously with that was the change of CEO's at the top.

The Group CEO retired. The old one. Then the new one came in.

Now Ecobank, I think, was too aggressive in terms of their growth strategy. They moved from a few countries to thirty-three countries in no time. And that put a lot of pressure on Ecobank Transnational in managing the new affiliates and subsidiaries that were created in different countries and different currencies. And so that growth was too aggressive. And the process of cleaning-up took a bit of time.

MR EMMANUEL LEDIGA: But, I mean, would you not say the PIC
10 should have benchmarked that bank with say our local banks here, to see all the flaws that would come about?

DR DANIEL MATJILA: You know, you can benchmark, you know, but you will end up not investing. I mean, there has to be an element of risk taking. If you can manage it, you know. We thought two-fifty we can put at risk to test the waters.

MR EMMANUEL LEDIGA: Oh, okay.

DR DANIEL MATJILA: At the same time, we needed something
20 significant that gives us, you know, a seat or two on the board to be at the table as well. You know. Otherwise, less than ten percent, we would not get a board seat and that is the last thing that you want in the continent. If you commit and you are not at the table, you will have a serious problem. You know.

So you have to be in the board at least to be represented. But, Commissioner. I think we did do due diligence as far as we could. It is a complex animal, Ecobank. And at the same time, we were comforted by

the fact that Nedbank was there as well. And they had a very strong relationship, corporation agreement that technical and corporate agreement that they had signed that we though was sufficient to give us comfort that the bank is run properly. You know. So, that is another issue.

IFC is the biggest investor in the continent. Lot of experience. And I think they have been successful. That is another comfort that we deriving in getting into Ecobank with very strong other shareholders that with them, I am sure, we will be able to achieve something out of
10 it. But the economy climate, the challenges in terms of the growth and fixing acquisitions after an aggressive growth strategy. All those put serious headwinds in ...[indistinct] ...[intervenes]

MR EMMANUEL LEDIGA: Ja, it was just too much. Okay.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: Okay, the next one... Okay, thank you. The next question is about. Mr Sadie said that the credit rating of the bank was much lower than the one at standard chartered. You know, the bank run by Standard Bank here. That it was much, much lower. And they felt that – he felt that maybe the PIC should have bought a stake
20 in that bank, rather than in Ecobank.

DR DANIEL MATJILA: I think we wanted to leverage on the platform of Ecobank at that time. In thirty-six countries, we thought the roll-out of the Africa strategy will be a lot easier with this kind of partner. Now, the – if you talk about the credit rating in terms of additional funding that we put in the bank, because we were buying equity and we thought

we are getting in at a very low rate of eight cents at the time.

And we thought Ecobank was cheap, relative to most of the banks there. And the strategic partnership that we are looking at of rolling out the African strategy. I am not sure if I have answered the question.

MR EMMANUEL LEDIGA: Ja, I think you did.

DR DANIEL MATJILA: Because I thought Mr Sadie was talking about additional investments that we did.

MR EMMANUEL LEDIGA: The million dollars in the RCP that you
10 put... We are come there too.

DR DANIEL MATJILA: Oh, okay.

MR EMMANUEL LEDIGA: Ja, we are coming there. So, the other one that he spoke about was accounting irregularities. You know, that there were some accounting issues and financial statements disclosures. In a sense that in once case, he said that, how you were doing calculations for an exchange, was not regular and that there were issues with that. With how you were translating the currencies to show in your balance sheets and the income statements.

DR DANIEL MATJILA: I think there are regulators, there are stock
20 exchangers that monitor those kind of things. The reporting, minimum reporting requirements. I would have thought that the bank have met minimum reporting requirements.

Otherwise, it would have been a big issue with regulators if that was the case. Although, as I have said, Ecobank was not fully regulated but it reports to the regulator in the... Ja, Francophone. The

Banque... I cannot remember the name of the ...[indistinct]
...[intervenues]

MR EMMANUEL LEDIGA: Yes, the Central Bank.

DR DANIEL MATJILA: Start of the Central Bank of the Francophone Region.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: You know, there is those reporting. And also, the other underlining subsidiaries, like Ecobank, Ivory Coast and you know, Cameroon, Senegal, Mali. All of those will be under that
10 regulator.

MR EMMANUEL LEDIGA: Ja. So... But are you saying then, his concerns about the forex translations are not – are baseless? Are you saying they are baseless?

DR DANIEL MATJILA: I think they are baseless. Because there is a board that deals with those and I think that was dealt with properly. I mean, if there is something to it, I am sure he should have gone to the regulators and I do not think this Commission is the right place to be – to deal with translation, currency translation in Ecobank, really. I do not think so. I think the regulator should have picked that up and dealt
20 with it there.

MR EMMANUEL LEDIGA: Ja, ja. Then the other thing he mentioned, is on that hundred million dollar loan that the PIC lent, I think. And he says that it was lent, even the PIC knowing that there were problems at the bank and why did the PIC continue to fund a bank when there were problems there.

DR DANIEL MATJILA: I do not think the PIC has necessarily lost money. I mean, on a mark-to-market basis you can claim that we have lost money, but as a long term investor and we are seeing, just before I left, the improvement in the balance sheet and therefore, you know, potential of recouping that money, increasing on an ongoing basis. And by the way, as I have said. We are not alone. We are with reputable shareholders, including Qatar National Bank that came in later on to join.

And this sorts of investments, because they are material, they
10 are signed off by the board. The board that is represented by other shareholders. And so thorough could have been done. Once the board says, we recommend this instrument, you know, that you can raise money through this instrument to shareholders. I think it is good enough. It is more than good enough.

So, on that basis... I mean, even if... I mean, we have to understand that the rating can deteriorate while you are an investor in the bank. Now when it has deteriorated, do you then bail out or do you remain there or try by all means to support the bank to a point where it can get off the ground. I think that is typical of banks, that they require
20 shareholders that are strong. Even locally.

That is why, you know, the law says, you cannot own more than fifteen percent of a bank if you do not have the right balance sheet. And you are a bank for that matter. You understand what you are doing. You know. Otherwise, it becomes a problem when they need capital to grow their business. So, different of fixing their

balance sheet in one way or the other.

MR EMMANUEL LEDIGA: One or two final questions. The first class travelling, you know, which is at the bank there. I mean, the bank was not doing well. And do you think that policy is still there? I mean, how do you fly? I do not know. Maybe they do it in these countries. But how do you fly first class when the bank is not doing well?

DR DANIEL MATJILA: No, I have not flown first class. [laughs]

MR EMMANUEL LEDIGA: Ja, to that period.

DR DANIEL MATJILA: Ja. I think the... I guess... I mean, it is one of
10 those things that you find in banks. I have not challenged it. And I do not know how many directors are using it. Really, I do not.

MR EMMANUEL LEDIGA: But personally, you did not do it?

DR DANIEL MATJILA: Ja. I am a director. So we are about what? Fifteen or so. Fifteen directors at the bank. You know, so it is small in terms of, you know.

MR EMMANUEL LEDIGA: All right. Okay.

DR DANIEL MATJILA: But I guess, it keeps some directors happy. You know. [laughs]

MR EMMANUEL LEDIGA: Ja. No, no. Sure, sure. And the PIC
20 policy. What is that with flying, generally? What is the PIC's...? Is that first class or business class?

DR DANIEL MATJILA: Business class, I think it's more than 5 000 or so the radius. Ja, I think it's somewhere around there.

MR EMMANUEL LEDIGA: Okay. Oh but its business class.

DR DANIEL MATJILA: It's business class.

MR EMMANUEL LEDIGA: Alright okay.

DR DANIEL MATJILA: It's not first.

MR EMMANUEL LEDIGA: Okay.

DR DANIEL MATJILA: Unless you get upgraded which becomes a problem.

MR EMMANUEL LEDIGA: Ja, okay no, I'm not complaining too much there. Okay.

And then the final thing is on the Mr Sadie, I mean you say you don't know him you have never met but why do you think he came here
10 to assist the Commission, is there something that you did or you didn't do for him or you did against him or didn't do for him? Is there something you can recall?

DR DANIEL MATJILA: I don't know. I mean at this Commission I've seen people that I was close to that we work so closely saying that I don't lead I rule and so on and so forth. So I don't know how people have changed and what made them change and say things that they are saying.

And Mr Sadie who I haven't met obviously I would have seen correspondence and his issue at board level taking that decision to
20 terminate his contract but I haven't met him in person. So I don't know what made him to come and present to the Commission.

MR EMMANUEL LEDIGA: Okay. Thank you very much. Thank you.

CHAIRPERSON: I'm just wondering Dr Matjila, why didn't you take up the offer of a first class ticket to wherever?

DR DANIEL MATJILA: James would have written about it.

CHAIRPERSON: Because I would have taken it up.

DR DANIEL MATJILA: James would have made a lot of noise about it, James Nogu.

CHAIRPERSON: I don't think I've ever seen the inside of a first class place in a plain, I don't know what it looks like. But I know that there are DG's who travel first class overseas.

DR DANIEL MATJILA: Yes.

CHAIRPERSON: So I was just wondering, I was just interested to hear what your explanation is why didn't you take it up?

10 **DR DANIEL MATJILA:** Commissioner, I simply felt uncomfortable. I mean that let me skip this one, I just felt uncomfortable.

CHAIRPERSON: And you're talking about not knowing why people change. Isn't the problem maybe on your side that you didn't realise that you changed in your leadership?

DR DANIEL MATJILA: I have changed?

CHAIRPERSON: I'm just wondering, is it not maybe on your side?

DR DANIEL MATJILA: Well, I don't know, maybe I changed after James Nogu. I'm sure we'll talk about it later but probably I might have changed responding to James Nogu more than anything else. But I
20 don't think I've changes significantly to a point where I'm a different person really, I don't believe so. I don't believe so.

CHAIRPERSON: One just wonders why people say to this Commission that people are scared of you afraid and so on.

DR DANIEL MATJILA: I think it's a small number, in statistics they say it's a too small a sample. I don't know.

CHAIRPERSON: Okay.

MR EMMANUEL LEDIGA: Yes, I think we shall come there but you know the culture of fear and all that. But we will come there to understand what the issues were there. There were some issues there.

ADV JANNIE LUBBE SC: Thank you. Mr Commissioner, with your leave then we will continue and press as far as possible this afternoon to deal with “Dr Matjila’s Reign of Terror” as entitled in his statement on page 187 but it is in inverted commas.

CHAIRPERSON: Ja I know, I just thought maybe there’s a word
10 missing and that’s “alleged”.

DR DANIEL MATJILA: I was persuaded by the evidence leader to talk about reign of terrors, that’s why I adopted the title.

MR EMMANUEL LEDIGA: What we were thinking was because it’s quite a long section so maybe if you could go to 192. Say from 187 to 192 and then we can ask questions and then we then proceed from TOR13 and see how it goes and then we ask further questions rather than you read the whole thing and we get lost in the process.

CHAIRPERSON: What’s councils view in that regard?

ADV ALEXANDER ROELOFSE: We don’t have any difficulty Mr
20 Commissioner.

ADV JANNIE LUBBE SC: The same from this side Mr Commissioner.

DR DANIEL MATJILA: Ja, you’ll stop me. Okay.

ADV ALEXANDER ROELOFSE: Dr Matjila, perhaps we can start off by asking where this name “The Reign of Terror” came from, is that something that you coined?

DR DANIEL MATJILA: I mean I think it came from newspapers from the media. Some of the reports were saying ja, the heading, “The Reign of Terror”. So I thought I could use that.

ADV ALEXANDER ROELOFSE: Oh, I see.

DR DANIEL MATJILA: Hopefully.

ADV ALEXANDER ROELOFSE: We’ll see if it was a reign of terror. Would you begin at paragraph 548 please?

DR DANIEL MATJILA: Commissioner, I’m on 548.

The PIC had also been on the unfavourable end of press
10 coverage after it emerged that the Police were probing allegation of
corruption by me in my position as the CEO.

The allegations relate to an incident in September 2017 when
an anonymous and still unidentified person accused me of channelling
funds to “a girlfriend being Ms Pretty Louw”.

CHAIRPERSON: Sorry, can we just make sure that I understand the
bullet position correctly? Probing allegations of corruption allegations
of corruption, you used the position by and I’ve written here against,
now which one is it? Is it you who were involved in ... (intervenes)
allegedly involved in corruption

20 **DR DANIEL MATJILA:** Against me.

CHAIRPERSON: Allegedly involved in corruption or the allegations
were made against you?

DR DANIEL MATJILA: Against me.

CHAIRPERSON: Yes.

DR DANIEL MATJILA: Yes, against me.

I've already dealt with the fact that the board dismissed this allegation on the strength of my explanation as well as the comprehensive internal audit report. Furthermore the investigation and report by Advocate Geoff Budlender senior council place my innocence beyond any doubt.

There were a disturbing number of anonymous emails and leakages to the media that made various allegations about me. To illustrate how spurious spiteful and nonsensical these allegations were one accusation charged that I have had used my position to have my
10 son irregularly employed at the PIC.

The evidence for this accusation, there was a gentleman who had been appointed the manager of the canteen who shared my surname. In fact this Mr Matjila was not a relative of mine. He was also not employed by the PIC for he was not an employee of the PIC but of the company that was contracted to supply catering services to the PIC. This is a level of maliciousness that compelled me to institute robust internal investigations.

ADV ALEXANDER ROELOFSE: Dr Matjila, if I can just stop you there. There is another allegation concerning your son that he was employed
20 by Dr Surve, what do you say about that?

DR DANIEL MATJILA: I heard about that and if my memory serve me well, he visited one of the, I think IT companies of Dr Surve for a day or to just go and see what development is about. He's not employed by Dr Surve or any of his company.

ADV ALEXANDER ROELOFSE: Thank you, please proceed.

DR DANIEL MATJILA: There was also an allegation of nepotism that I have employed my son in the risk department. Mr Katlego Lebada, who was recruited to the PIC through the strategic partnership we have established with Fordham University in New York USA.

He's very qualified in financial risk management but very strong in credit risk. He had a master's degree in investment management. I was quite surprised why Mr Paul Magula was reluctant to utilise him in credit risk but use him in market risk preferring to use Ms Tshifango Ndadza in credit risk when he was actually employed in
10 market risk.

I came to understand later that this has to do with the allegation that Mr Lebada was my son. He's not my son. However there was also other very qualified individuals in risk who were side-lined by Mr Magula such as Mr Khaya Zonke, Mr (inaudible) who would have filled the gaps in credit quite well or quite comfortably who were not used by Magula for this purpose. I also observed how risk and legal department in the PIC slowly but steadily being dominated by Venda ethnic group.

I have asked the executive head of information and technology
20 to investigate why there were so many information leakages. For example, the mobile satellite technology mobile, Ascendis and TOSACO deals. The confidential PIC memorandum concerning this finance applications have found their way into the hands of the media. The source of these emails was so obviously an inside job. The call I received on the 30th of August 2017 was also clearly from someone in

the PIC.

I think we talk about it much earlier in the beginning, ja.

MR EMMANUEL LEDIGA: The one with the heavy Venda accent.

DR DANIEL MATJILA: That's the one.

MR EMMANUEL LEDIGA: Is it?

DR DANIEL MATJILA: That's the one.

MR EMMANUEL LEDIGA: Okay.

DR DANIEL MATJILA: Yes.

I was very concerned about the vulnerability of the PIC IT
10 platform. Not only was there a clear and obvious risk to 2 trillion worth
of client assets if the PIC system could be compromised in this manner
but there was real likelihoods that potential applicants for finance will
be deterred from approaching the PIC for funding if the confidentiality
of the applications could not be secured which could in turn adversely
affect the PICs business. Furthermore as a key individual I'm expected
to save guideline assets and information in terms of FAIS Act.

Not much progress was made by the internal team in
uncovering neither the sources of leaks nor the sources of anonymous
emails. The IT team were able to identify the internet kiosk in Sandton
20 where some of the emails were sent from. I asked the team to make
further investigation and reach out to the kiosk. Ms Menye advised me
that they will need the case number in order to subpoena the kiosk to
provide more information.

I requested Ms Menye to approach the nearest Police station
to open a case in order to get the case number and get information

from the kiosk. Ms Menye recommended that she be accompanied by internal audit Mr Lufuno Namagovhani to open a case of theft of PIC confidential information using the lead MST memo as evidence. They went to the Brooklyn Police station to open a case. They later reported back to me that the Police had refused to open a case as our document was not classified as confidential.

Sometime around the 28th of September 2017, Ms Menye and Mr Simphiwe Mayisela came to my office to discuss IT strategy. After the strategy I made a remark that I could not understand why PIC is
10 unable to obtain a case number so that we can subpoena the kiosk. Mr Mayisela confidently told us that he can open a case and that he has done so many times in the past. It's a piece of cake, he remarked. I requested him to assist.

Ms Menye and Mr Mayisela went to present their IT strategy to EXCO that day, I could not attend this meeting as I was tied up with other matters. The feedback I got was that the meeting became very chaotic because Mr Mayisela did not show any respect to EXCO members to a point where there was an altercation between him and the CFO Ms More at that time. The meeting ended abruptly, I'm told.

20 Mr Mayisela went to the Police station accompanied by Ms Menye, some view days later I received a text from Ms Menye that they have been able to open a case- would have been able to get a case number. I was quite happy and congratulated them and gave them clearance to proceed to the next stage of the investigation.

Following the resolution of the board on the 15th of September

clearing me of any wrongdoing, I formerly requested the board of the PIC to give me authority to appoint an external expert to assist in investigating the sources of malicious emails and leaks of PIC confidential information. I had to act decisively as the internal team was not making much progress in this regard. BCX was appointed to assist.

I did inform EXCO at the meeting of the 18th of September that I will get external service providers to assist with investigations. BCX advised me that it will be faster to scan the emails correspondences
10 using Mimecast an email data security system of which the PIC is a customer.

I had a strong believe that people within the PIC were behind these allegations and I narrowed the scope of the investigation to cover areas where there were highest chances of leakage.

- The company secretary who are a custodian of company of company records.
- The IT department which naturally should be able to secure PIC information.
- The risk department who should have ensured
20 that PIC information risk is managed.
- The legal department which is the custodian of all legal agreements in internal audit which tested controls around the security of PIC information.

I informed each of them of the affected person. As expected, they

didn't like it. Some responded in a professional way some of course behaved in an immature way but I had to act.

After carefully explaining this process and it's rational to a journalist from the Business Day, it was subsequently sensationalized analysed and dubbed the "reign of terror", that's where it come from.

CHAIRPERSON: My colleague is asking whether you know the name of the journalist, coined this reign of terror?

DR DANIEL MATJILA: I will have to check, I can't remember exactly.

Nothing could be further from the truth. As I have already
10 explained the exercise not lightly undertaken was in order to protect the integrity of the PIC and more importantly the confidentiality of its clients and applicants for funding. I had no desire to spy on PIC employees.

I think that was what was said in this Commission, that I was spying on employees, Commissioner.

The first report of BCX revealed that the case number which
was obtained from the Police following the meeting of the 28th of September 2017 discussed above was obtained as a result of an affidavit signed by Mr Mayisela where he had opened a case of
20 corruption against the PIC CEO. This was the first time I learned that I was under investigation for corruption. The harassment continued.

We myself and the CFO immediately received further emails and text messages from someone, James Nogu purporting to be investigating corruption by me and who was going to expose this corruption. This person accused me of having appointed BCX not to

assist in divulging the source of these leaks and anonymous emails but to cover up my own supposed corrupt activities.

Having heard the testimony of Mr Mayisela before this Commission, I thoroughly believe that there's a high probability that he was very much involved in this campaign. Mr Mayisela has told this Commission, he turned into an undercover operative using the super admin rights given to him by Ms Menye without my approval. He has continued to provide SAPS with PICs confidential information according to his testimony.

10 **CHAIRPERSON:** Advocate Lubbe.

ADV JANNIE LUBBE SC: Thank you. Mr Commissioner, just a couple of questions. Did BCX sign an NDA?

DR DANIEL MATJILA: They did sign an NDA, Commissioner.

ADV JANNIE LUBBE SC: Is it correct that Mr Chris Pholwane, the executive head HR, has super admin rights given to him by you?

DR DANIEL MATJILA: I cannot recall giving him super admin rights, Commissioner.

ADV JANNIE LUBBE SC: My information is that even at this moment he still has that super admin rights and it was given to him by you.

20 **DR DANIEL MATJILA:** I don't any such- recall any such request from him because it would have been in a letter addressed to Mimecast to give him those super admin rights. It can't be verbal, it can't be done any other way other than through a formal letter.

ADV JANNIE LUBBE SC: It is interesting to note Dr Matjila that in paragraph 553, you state that I also observed high risk and legal

departments in the PIC slowly but steadily being dominated by the Venda ethnic group. Isn't that in itself a risk for the PIC?

DR DANIEL MATJILA: I think it's a risk because you want diversity in any department. We're not saying there mustn't be other ethnic groups or a dominant one but they must be spread across organisation and not concentrated in one department.

ADV JANNIE LUBBE SC: Did you take any steps to put a stop to this?

DR DANIEL MATJILA: Unfortunately not, I think I didn't have time.

ADV JANNIE LUBBE SC: With Mr Nogu on your back?

10 **DR DANIEL MATJILA:** Yes.

ADV JANNIE LUBBE SC: The last question Dr Matjila, is I just received, when I sit here people send me messages ask this and ask that. This gentleman you referred to Mr Lebada, you say is not your son?

DR DANIEL MATJILA: He's not my son.

ADV JANNIE LUBBE SC: Do you know that- but it's after you departure that he's now been appointed as in the risk department in a senior position?

DR DANIEL MATJILA: I'm aware that he's been promoted.

20 **ADV JANNIE LUBBE SC:** And that people who were his seniors in that department have been overlooked.

DR DANIEL MATJILA: Unless ... (intervenes)

ADV JANNIE LUBBE SC: I'm not criticising you, I just to find out if you know about that?

DR DANIEL MATJILA: I would assume that there must have been a

process. If I recall before I left there have been adverts about this position and everyone was allowed to apply.

ADV JANNIE LUBBE SC: But in general- sorry, you're not finished?

DR DANIEL MATJILA: I'm done, good.

ADV JANNIE LUBBE SC: But in general, isn't it a major HR problem if in a specific department, you take a junior who reported to say Mr A promote that junior over the head of Mr A and Mr A must now report to the junior Mr B. Is that a problem in any corporate structure?

DR DANIEL MATJILA: If it's there's a process and transparent and
10 open, they all apply they get interviewed and he becomes out best, that's the process. I mean I can contrast that with what's happening I'm told at the PIC where somebody who was very I would say junior in equities before move to private equity, they are now 18 head of the department, heading up very senior people who they used to report to. I think that one is extreme, imagine.

ADV JANNIE LUBBE SC: Can I just mention one department. Do you know in our environment the legal environment the pecking order is extremely important? If you're a senior of some person, you must be respected and his your junior, that type of thing. And we have in the
20 legal department the PIC that the former, I think she was the acting head Pamela, junior people that she appointed and trained one of them, her junior was appointed over her head but you say there's a process. But isn't it your experience that this is a serious cause of concern specifically in the legal department?

DR DANIEL MATJILA: I think I do comment about that situation later

in my statement, Commissioner. And there I'm simply saying we need to give people positions according to their strengths, play according to their strength and not simply put them in positions and set them up for failure. The PIC as an organisation it's about investment mainly, legal, risk is very critical and it has to be managed by people who understand it very well and those who have strength in other fields, they can continue to perform function.

Now the person that you are talking about was very strong in corporate and we recognised that and we gave them that responsibility.
10 Unfortunately they had the desire to be at the top but there can only be one head at a time unfortunately. And as I said it was a competitive process that we ran and they had an opportunity to also participate if they wanted to.

ADV JANNIE LUBBE SC: Well, two spectacular failures of this process where a junior person was appointed to a senior position, is that of risk and legal where Nesane and Magula were promoted as juniors to be executive heads and it's a spectacular failure as we all know.

DR DANIEL MATJILA: They were the best for the positions at that time. We would have known that will have been the situation at that
20 time. They showed promise, energetic, smart, we all make mistakes.

ADV JANNIE LUBBE SC: It's not in investments we only make mistakes but in people.

DR DANIEL MATJILA: Even investing in people as well sometimes you'll take a wrong bet and it surprises you.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

MR EMMANUEL LEDIGA: Yeah, I've got quite a number of questions here.

Just in terms of the corruption case, do you know where the case is now, at the moment? Would you know?

DR DANIEL MATJILA: I have no idea where it is now. I have never been contacted by the Police, nothing.

ADV JANNIE LUBBE SC: I can perhaps assist the Commission. I think it's now the sixth investigating officer.

MR EMMANUEL LEDIGA: Sixth?

10 **ADV JANNIE LUBBE SC:** Sixth.

MR EMMANUEL LEDIGA: Wow.

ADV JANNIE LUBBE SC: It's been passed on.

MR EMMANUEL LEDIGA: Okay. Well is it going up or down?

ADV JANNIE LUBBE SC: If we consider the rank, forgive us Mr Commissioner, it seems to be going up.

MR EMMANUEL LEDIGA: Good. Ja, so I just want to ask in terms of that process. If a corporation, if the Police are investigating somebody or a company, isn't it incumbent that the legal team of the PIC should know about that? It's a question I've asked but I couldn't get an
20 answer. Isn't it incumbent that the PIC should know about this case, the legal department and can engage with the Police around it and assist the Police and all that?

DR DANIEL MATJILA: I think yes, they were dealing with it. I don't know how far it is but we're working closely with Edward Nathan Sonnenberg at that stage once this thing started. We had contracted

them to assist and I don't know how far they've gone.

MR EMMANUEL LEDIGA: Yes, because I was just wondering that could people just give the info to the Police without the company knowing? Should you know?

DR DANIEL MATJILA: Are you talking about Mayisela?

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: And giving out of information.

MR EMMANUEL LEDIGA: Yes, to the Police.

DR DANIEL MATJILA: Yes, but we learn that in this Commission that
10 he was passing information to the Police.

MR EMMANUEL LEDIGA: Yes. Ja, shouldn't that ... (intervenes)

DR DANIEL MATJILA: I don't know what the PICs doing about that.

MR EMMANUEL LEDIGA: Ja, shouldn't that be part of the legal department? If the Police have got requests, shouldn't they actually ask the legal department and say, we got some request and all that?

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: Is that correct? Is that the way ...
(intervenes)

DR DANIEL MATJILA: Ja, we would have expected that. There has a
20 to be a channel of requesting information in the PIC. First there is an information officer according to law I think which is myself and I've got a deputy who was the head of legal I think and that takes that responsibility. So we haven't had any formal request from the Police for information of the PIC.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: Alright. So are you saying the process- is the process correct or not correct at the moment?

DR DANIEL MATJILA: It's not correct because he's passing on information without us knowing.

MR EMMANUEL LEDIGA: Mm-hmm.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: All right. Next one is. You know, like people who are saying you are sort of employing your relatives, your son. I mean, it is interesting. Why did they ask you? Why did not ask
10 somebody who is senior to ask you?

DR DANIEL MATJILA: I guess ...[intervenes]

MR EMMANUEL LEDIGA: Were they scared of...? A fear thing. I mean, what ...[intervenes]

DR DANIEL MATJILA: No, no. It is part of the strategy to damage my name, Commissioner. I mean, people do not ask. They just go the media of this sorts of methods of disseminating damaging information via emails and other, you know. You have seen the Nexis report. You know, he claim that they have approached me for information. They
20 could not find me.

And they go on to do this investigation and claim that I have received R 2,5 million from the bank, when I had nothing to do... I had no commercial relationship in my personal capacity with the bank at all. You know. Again, it goes into the newspapers and it becomes headline to further damage my name. So it is a strategy to just continually

damage and damage and damage.

MR EMMANUEL LEDIGA: Ja, okay. When you were cleared on the 15th of September. I think that is what? 2017, right?

DR DANIEL MATJILA: H'm.

MR EMMANUEL LEDIGA: 2017?

DR DANIEL MATJILA: That is correct.

MR EMMANUEL LEDIGA: Mr Nemagovhani's report. Was it part of the dealing there? Because I think the Budlender report had not been done yet. What?

10 **DR DANIEL MATJILA:** Yes, he ...[intervenes]

MR EMMANUEL LEDIGA: When you were cleared, sort of, who cleared you? Was it the board and the internal audit report and all of that?

DR DANIEL MATJILA: The board on the 15th of September 2017, asked Internal Audit to go and verify the accuracy of the information that we have provided in response to the allegations that were made.

MR MANUEL LEDIGA: The MST issue?

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: Yes. H'm?

20 **DR DANIEL MATJILA:** And to also investigate the correctness of the responses. So they put together a terms of reference and then I was interviewed at some point. And they reported back to the committee on their findings on the 29th of September. So based on that, then I was formally cleared.

MR EMMANUEL LEDIGA: Yes, but you were... So the first time you

were cleared, was on the... What? On the 15th?

DR DANIEL MATJILA: On the 15th. But the board ...[intervenes]

MR EMMANUEL LEDIGA: It was the board, ja.

DR DANIEL MATJILA: Ja, but the board still wanted Internal Audit to go and check, verify the completeness of the response to the allegations.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: And then you were then finally cleared on
10 the 29th?

DR DANIEL MATJILA: On the 29th. Yes, you can say so.

MR EMMANUEL LEDIGA: And then the ...[intervenes]

DR DANIEL MATJILA: Because there was an issue of Mulaudzi. The three-hundred thousand that was not captured in the terms of reference of the Internal Audit report.

MR EMMANUEL LEDIGA: Okay.

DR DANIEL MATJILA: So that gab was missing. So on the 29th, they then said, you know, asking to verify if that was the case. And that is where they finally cleared me on the day.

20 **MR EMMANUEL LEDIGA:** Then the... But this report from Budlender, what was it looking at then? Because it seems you were cleared on the big issues there in the MST transaction. What was the additional, you know, parts of that report?

DR DANIEL MATJILA: It was a full investigation from scratch.

MR EMMANUEL LEDIGA: Oh, okay.

DR DANIEL MATJILA: Because if you recall. For some reason, there were issues from other quarters that said the board erred when they cleared me.

MR EMMANUEL LEDIGA: Oh, yes. Ja, I can remember now.

DR DANIEL MATJILA: And there were some people who had reservations around the board clearing me and questioning the process and so on. And this thing was in the media afterwards for a long time. And when Minister Nene came back, he decided to then ask the board to appoint an independent service provider to conduct an investigator
10 to conduct a fresh investigation to this allegation. Mr... I mean, Advocate Budlender, Senior Counsel, was then appointed to perform the same sort of information but on a larger scale.

MR EMMANUEL LEDIGA: Yes. But when did you start to investigate the people? I mean, was it after the 15th clearance or the 29th clearance?

DR DANIEL MATJILA: After the 15th clearance, I was specifically asked to secure the PIC environment, because there was a worry that ...[intervenes]

MR EMMANUEL LEDIGA: Oh, to secure?

20 **DR DANIEL MATJILA:** Yes.

MR EMMANUEL LEDIGA: To secure. Yes.

DR DANIEL MATJILA: That if these emails continue, we do not know what next. It may just be someone, you know, who will eventually get access to the information of the PIC. And the fact that we are dealing with money, anything can happen. You know. Do they have access to

our bank accounts? That sort of security needed to be tested to make sure that they do not get into that space and cost us a lot of money.

MR EMMANUEL LEDIGA: Okay, and then after the 29th, then you said. Okay, now you are free the reign of terror. [laughs]

DR DANIEL MATJILA: No, after the 15th, I was formally given authority to start the investigations and to secure the PIC environment.

MR EMMANUEL LEDIGA: Yes, okay.

DR DANIEL MATJILA: Then after the 29th, it was finalised that all was cleared and therefore, I could then start in-depth investigation into this
10 matter.

MR EMMANUEL LEDIGA: H'm.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: Okay. All right. And then, so there was no... You know, because some people said that this – there were conflict of interest, but you are saying you are cleared. There were no conflicts for you to investigate this?

DR DANIEL MATJILA: Absolutely. I mean, the board had cleared me.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: So... And gave me authority to do the
20 investigations. So, I did not see any conflict, really.

MR EMMANUEL LEDIGA: Ja. Okay. All right. The next one is that. You mentioned four departments that you were looking at: The Risk, the IT, Secretariat and Legal. Just in terms of your thinking. I mean, you... Was Legal also part of the problem, in terms of leaks? Would you say? Because in the past, you have mentioned three people from

three departments.

DR DANIEL MATJILA: Ja, Legal is also a custodian of legal agreements.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: Yes. They handled sensitive information of the PIC as well.

MR EMMANUEL LEDIGA: Ja, but do you think they were part of the leaks or not?

DR DANIEL MATJILA: Well, I felt there could be. At that time I did
10 not know, but I felt they could be part of the leak.

MR EMMANUEL LEDIGA: Ja. Okay. I am not saying much about... I am just trying to understand what you are saying, you know. And then in terms of those four departments. But it looks like. When you did a list of the first fourteen people... There was a list of fourteen people that you said – they said you were spying on. You know. And were they ...[intervenes]

DR DANIEL MATJILA: The list of fourteen? No.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: No, I think I only had about five departments
20 that I was looking at.

MR EMMANUEL LEDIGA: Five departments?

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: And how many people within the five departments? Can you recall?

DR DANIEL MATJILA: I cannot remember. It is probably close to six

or so.

MR EMMANUEL LEDIGA: Ja, ja.

DR DANIEL MATJILA: That is not a big number.

MR EMMANUEL LEDIGA: Ja, ja. But why were they saying you were spying on them? I mean, some of them were very, very adamant that you were spying on them.

DR DANIEL MATJILA: I do not know what is the nature of the spying, because really, all we did was simply to scan email correspondence on Mimecast. That was it.

10 **MR EMMANUEL LEDIGA:** And did they know?

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: Because it looks when you do that, you know, the people should know. Otherwise, they would call it spying.

DR DANIEL MATJILA: Look. I mean, first, on the 18th, I met with Exco. It must have been a Monday after the 15th. To tell them that I have got authority. I have been given the mandate to investigate these leaks. In fact, some of my colleagues were saying: But why do we not all take lie-detector test?

20 Because it looks like we are leaking, you know, in Exco, in particular. I said: Well, let us not approach it that way, but we will find the most elegant and dignified way of dealing with the matter. In consultation with BCX, they said: Well, maybe the easiest would be to scan the email correspondence.

Because these are emails that are being disseminated. So maybe if we can get to certain points in the organisation. Potential

points, where these emails could be emanating from, you know, it will be the easiest. And Mimecast would be able to identify that. You know. And hence, these departments that we have mentioned that are dealing with – that are handling that sort of information, were identified.

And before we conducted this... I mean, like Advocate Lubbe will do. You know, he will just give me a call and say: Hey, later on. You are going to be implicated. So... [laughs] The Commission.

So, I also said to my colleagues, those that are affected, that
10 we are busy with an investigation. You are affected. And busy to unfortunately to conduct the process. We would like you to cooperate. You know. Please give them your cooperation. We are not saying you are guilty.

Unfortunately, it is an uncomfortable process that we need to go through. That is what I explained to my colleagues. Before, you know, this thing was ...[intervenes]

MR EMMANUEL LEDIGA: Before you deduct...

DR DANIEL MATJILA: Ja, absolutely.

MR EMMANUEL LEDIGA: Then the final question is on... Did these
20 people, I mean, five or six people really, you know, they went through disciplinary actions. Some were fired. It was quite a process. I mean, once you have found out who, in commas, who the players were. You know, who did this. I mean, did you sanction these disciplinaries and the firings? Did you...?

I mean, were you angry about this and say: You know, these

people have breached the IT systems and leaked information and senior counsel has found them guilty? Or, you know, we need some witch-hunt. I am very angry. They must be fired.

DR DANIEL MATJILA: Look, I mean ...[intervenes]

MR EMMANUEL LEDIGA: How were you thinking? I mean, once you found these people.

DR DANIEL MATJILA: I think we left that to a proper disciplinary process, subjected to a proper disciplinary process, according to PIC policies. You know, those who were affected, were afforded an
10 opportunity for representation and we appointed an independent chairperson to run the process, you know, at arm's length.

I was not directly involved in those processes. Only when I was asked to be the witness in some instances. Like, in Mr Paul Magula's case. I was asked to be the witness of the organisation of the PIC. So we subjected all of those to the normal PIC disciplinary processes.

MR EMMANUEL LEDIGA: It was just a normal thing. You were not very angry about this and say, this must happen and this?

DR DANIEL MATJILA: I mean, disappointed. I mean, I was
20 disappointed. I was actually disappointed because, you know, people like Magula, for example, that we promoted from nowhere and young and really, I was trying to create a very young team that will probably be there for fifteen years, when I am gone. You know, probably even do better than I did. Being at the PIC for fifteen years.

Because that is the nature of the asset management. You

need people who will be around there for a long time. Trustworthy and always acting in the best interest of the organisation and so on. So, I was extremely disappointed when I saw all of this happening around me with my colleagues that I have trusted so much.

MR EMMANUEL LEDIGA: Ja, thanks for that.

CHAIRPERSON: Dr Matjila, in the last paragraph that you read, 565. Right at the end. You are talking about: Mr Mayisela getting super admin rights, given to him by Ms V Menye without my approval. What is the process there usually? Must you approve the granting of super
10 admin powers to anyone?

DR DANIEL MATJILA: Yes, at least someone senior. For example. Ms Menye was reporting to Ms More.

CHAIRPERSON: To the CFO?

DR DANIEL MATJILA: As an executive. So, you know, at least one executive should be informed about this sort of thing. I would have thought.

CHAIRPERSON: And did you establish whether the CFO was or had been informed?

DR DANIEL MATJILA: Was not informed.

20 **CHAIRPERSON:** She was not informed?

DR DANIEL MATJILA: Ja, as far I know. She was not informed either.

CHAIRPERSON: And this given of information by Mr Mayisela to the police. Obviously, it would appear to me that he gets it from somebody inside the PIC and who would do something about it? Would it be the executive directors or would it be the board? And do you know if

anything has been done about it? Because it is quite disturbing.

DR DANIEL MATJILA: Commissioner, I do not know what has been done. I think he did say to this Commission that he was still giving information out, but I was already outside of the PIC.

CHAIRPERSON: He did say that, yes.

DR DANIEL MATJILA: Yes. I was outside of the PIC at that time. So, I do not know what they are doing about that information.

CHAIRPERSON: I know you were outside at the time, but I am just wondering whether you have established whether anything has been
10 done about it?

DR DANIEL MATJILA: No, I have not. I have not. No, I have not established that.

CHAIRPERSON: All right.

ADV JANNIE LUBBE SC: Can I ask a follow up question on that, Mr Commissioner?

CHAIRPERSON: I have just got one more question.

ADV JANNIE LUBBE SC: I am sorry.

CHAIRPERSON: This... You know, these terms of reference that we have. There is one relating to – I think it is either the very first one or
20 the next one – that relates to the question. Where the PIC instead of investigating what was revealed by the Whistle-blower, it rather investigated who is the person who gave that information, relating to you and what you would allegedly have done. What do you say to that, if anything?

DR DANIEL MATJILA: I think, Commissioner. It really depends how

you see this person. You know. If you see them as a Whistle-blower, then probably the PIC should have investigated these issues that the Whistle-blower is raising. But in any case, those have been investigated by senior counsel. And subjected to the investigations. But we also argued that we do not believe this is a Whistle-blower, because they are very malicious. They can say anything. And you can see some of the allegations and it is... Ja.

From where I sit, I could not believe they can be called Whistle-blowers. They can be given the status of a Whistle-blower. In
10 my view. You know. It is just something that someone that is just being malicious and really throwing as much mud as possible and hoping that something will stick in the process. That is how I see it.

Because the Whistle-blowing process within the PIC, is properly defined and I am sure the employees know about it. There is a hotline. There is the board. There is even Treasury. If you want to work outside the PIC through shareholders.

So there are all kinds of ways of reporting the issues in a more, I would say, dignified way, than just splashing out emails in the manner that we have seen. And using the media to support this. You
20 know.

CHAIRPERSON: And in your endeavours to secure the IT system and the information of the PIC, did that entail checking or inverted commas, the people are saying you were spying on them. Sort of checking on people, rather than looking at ways of securing the IT system. That is what the spying allegation comes from.

DR DANIEL MATJILA: Ja. I think, Commissioner. If I remember very well. Even the window that we gave to BCX or Naledi Consulting to run their investigations or collection of information, was a reasonable short one and then we took away those rights, once they said we have all the information and we close. That was the only thing that we did around this matter. I do not know what other nature of spying it was. You know.

I have heard some people suggest or insinuate that their phones are tapped and gadgets have been placed in their offices,
10 etcetera. I do not know anything about that. The only exercise that we did, was this one of super admin drives, collect information, close it and then analyse and that was it.

CHAIRPERSON: All right. Mr Lubbe.

ADV JANNIE LUBBE SC: Dr Matjila, can I just take issue with you regarding your evidence that you would expect the head of IT before granting super admin rights to advise you or to get your permission or that of the CFO. Surely, if the two persons implicated are the CEO and the CFO, it cannot be expected of that Executive Head IT to request information to grant super admin rights. Would you agree?

20 **DR DANIEL MATJILA:** Commissioner, on the 15th I was clear. You know. So there were no issues, you know, as far as I am concerned, Commissioner. Ja.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

CHAIRPERSON: Right. I am going to ask you for suggestions. It is twenty to four. What do you think we can deal with quickly or shall we

simply ...[intervenes]

ADV JANNIE LUBBE SC: Chair, we can perhaps just deal with the next paragraph. It is incorrectly number 434. It should be 566: Whether any PIC director or employee in position of privileges. Perhaps we can just deal with that and we should be finished by four.

DR DANIEL MATJILA: Apologies, Commissioner with the numbering.

This was our response to:

“Whether any PIC director or employee ...[indistinct] or position or privileges or confidential information for personal gain or to improperly
10 benefit another person.

The policy, the PIC policy, was to effect the directors of the PIC cannot serve on boards of listed companies, unless approved by the PIC board, which approval will only be granted under certain stipulated conditions.

The Cosec, Ms Mathebula was either ignored or simply choice not to enforce this policy. For example, in the case of Dr ...[indistinct], who whilst sitting as a non-executive director of the PIC, simultaneously sits on the board of South 32, which is a listed company, Murray & Roberts, as well as, now lately, EOH.

20 The failure to enforce this policy, has the potential to lead to a situation where a sitting PIC director might use his or her position or privileges or confidential information for personal gain or to improperly benefit another person, and furthermore, may put the PIC in breach of competition and inside trading laws...”

CHAIRPERSON: Sorry, sorry. The suggestion is. We go through this

paragraph and...?

ADV JANNIE LUBBE SC: And then take questions on that.

CHAIRPERSON: Right. Mr Roelofse, is there anything that you would...?

ADV ALEXANDER ROELOFSE: No questions, Mr commissioner.

CHAIRPERSON: No, questions.

ADV JANNIE LUBBE SC: Dr Matjila, I think this term of reference goes a bit wider than what is dealt with in your response. I think it further refers to, and I am sorry to bring it up again, of Pretty Louw. Is
10 it not also situation where the CEO of the PIC picks up the phone, calls an investee, a CEO of another investee company: You must please help this lady. She is in financial distress.

And that person then sees that as, not as a request, but as a command. Is it not covered in this terms of reference, that thereby Ms Louw was improperly benefited?

DR DANIEL MATJILA: I think, Commissioner. We need to separate between Mr Mulaudzi assisting in his personal capacity versus the company that he represent assisting. I think we have explained this at length, to say, at first, there was a proposal of an enterprise
20 development opportunity within Kefolile for this black woman owned cosmetic company.

And that took long, and when they ran into problems, then they asked me for assistance. Then I requested Mr Mulaudzi to assist and he was very happy to assist in his personal capacity, you know.

But he came to this Commission and said he was put under

pressure which I do not agree with at all. The request was a simple one. Either, you know, he accepts or he does not accept it. Or he was just passing on a request of these ladies.

ADV JANNIE LUBBE SC: And I think a further argument that can be put on the table with regarding to this term of reference, is that, in the SA Home Loans matter, you signed the cession to Maponya, which after the visit by the officials of Standard Bank it was immediately withdrawn.

The point I am making is. This can also be used as an argument to say that. You did this to improperly benefit Mr Maponya.

10 You used your position. Can you comment on that?

DR DANIEL MATJILA: Ja. I do not think, Commissioner. That I have used my position here. On advise, you know... I mean, there has been a process that we explained at length the other day. That I was advised that the company is prepared to pay and they will pay. They do not have the means to pay. And if PIC can almost loan them the money. I think that is the loose way that we used for that.

They can then pay. But at the same time, there are checks and balances. If that has to be done. There has to be a board approval for that to happen, because it is a significant amount of
20 money and shareholder approval.

Then the shareholders in Standard Bank approach us to say: We are not going to support this sort of move. You know. This request. Then we withdrew the cession. I think that is the – my explanation for this.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

MR EMMANUEL LEDIGA: I have got a question here on this ATOR(?). And you know, I do not have specifics, but it is just a general question. So, see if you want to answer it or not. I mean, when we began this Commission, there were people coming to us or talking to us that PIC advisory businesses or there are people who are giving stuff of the PIC. Money and kickbacks and everything.

And it was such a huge thing. People were talking about it. And from what we can see. I mean, like, you know, I think Advocate Lubbe say that the forensics do not reveal much and all that. But
10 according to you.

I mean, what do you think? I mean, did this thing happen? And is this something you want to put to bed now, that it never happened at the PIC or do you know about it or do you not know about it? There has been really... It is big issue and since you are here, I thought I must ask you.

DR DANIEL MATJILA: Commissioner, are you talking about PIC stuff, receiving stuff?

MR EMMANUEL LEDIGA: Yes, stuff.

DR DANIEL MATJILA: Kickbacks.

20 **MR EMMANUEL LEDIGA:** People at the PIC. Ja, people were saying they get transactions and then they give kickbacks to PIC employees and all of that. Or they get advisory mandates and give kickbacks and all of that. I do not have specifics, but I mean, those were the general thinking, when we started the Commission.

DR DANIEL MATJILA: I have no proof for that, but it is something that

I read might be happening and it has been a concern as to how do we circumvent that? What sort of process can be put in place to ensure that this kind of thing does not happen? We have not, you know, formally tried to investigate if that is happening. How do we circumvent that? What sort of processes can be put in place to ensure that this kind of thing does not happen?

We have not, you know, formally tried to investigate if that is happening. I think we were overtaken by many things, eventually. But for me the biggest worry has always been around the transaction fees
10 or facilitation fees. That, hopefully, we will have to discuss and as part of my recommendation to the structure of the PIC. I think that has been the only concern for me, as to what it means. I mean, where you have seen...

You know., we talked about S&S. We talked about, you know, probably even TOSACO that was mentioned. Ascendis. Those kind of transactions. You know, can be very worrisome to what happens around this facilitation fees, if there is no mechanism to make them more transparent and clear on how they are paid and who they are paid to. You know. That is something that has always worried me.

20 But I have never able to put my energy to resolving it properly. But we have raised issues around the fees to the board many times and there has been an attempt to get into a debate on how do we deal with transaction fees and facilitation fees, so that they become transparent and better managed.

MR EMMANUEL LEDIGA: So you are saying that there could be

problems there, but the PIC has not looked at them?

DR DANIEL MATJILA: Has not looked.

MR EMMANUEL LEDIGA: Ja, and the problems could be in the transaction advisory business in the transaction fees?

DR DANIEL MATJILA: Ja, that could be the problem.

MR EMMANUEL LEDIGA: What could be the problem there? The Chairperson was asking. What worries you there? What is your main worry?

DR DANIEL MATJILA: I think... Ja, like. I mean, you talk about
10 facilitation fees and the payments and so on and so forth. And the potential enticement to some of the employees. We have not proved that, as I say. And I am saying, we need to think about how to best make sure that if it happened, it stopped. You know. So that it does not happen. If it does not happen, but still, put better measures, so that it does not happen in the future. You know. So that sort of mechanism.

And I still believe that, you know, the issue of facilitation fees. If it is defined properly and transparent and so on and so forth. It will go a long way. Even pushing deals, you know. You will end up with
20 bad behaviour if you push deals and pressure and so on and so forth. Because some... You know, we spoke about investment banks and so on. How these things can be handled better.

And we even said: Why do we not pay them in a staggered way? But I was referring to more to facilitation fees as opposed to transaction fees.

MR EMMANUEL LEDIGA: Oh, yes. I see.

DR DANIEL MATJILA: Because transaction fees and those things must be done immediately, because it is the bread and butter of investment bankers. They would not want to be in the transaction. But those that facilitated this transaction in this manner and they can proof their time and time spent and effort and can be quantified, then there has to be a way of rewarding them in a proper way.

MR EMMANUEL LEDIGA: Yes. But are you saying, you might want to know where these fees end up? I mean, is that something you are
10 saying that there could be a fifty-million rand fee, but you do not know where it ultimately ends. Is that what you are saying?

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: Is there something that can be done?

DR DANIEL MATJILA: Yes, checks and balance. Rather ensuring that our people... I mean, the PIC ...[intervenes]

MR EMMANUEL LEDIGA: The staff member do not ...[intervenes]

DR DANIEL MATJILA: Are not finding themselves compromised because of this kind of thing.

MR EMMANUEL LEDIGA: Okay, all right. Thank you.

20 **CHAIRPERSON:** If I can just follow-up on there. You have never discovered or heard that some of the employees at the PIC help in putting together a case for a transaction for which they get paid in the end?

DR DANIEL MATJILA: I think that issue I heard here, when we were discussing, I think, Ascendis. And I did explain some history around Mr

Mulaudzi, the wife asking to help. And raising concern about the relationship her husband and one of the employees, Mr Magula. And then that matter was raised here in the Commission. If I was aware that, that was happening. Unfortunately, I was not aware that was happening, Commissioner.

CHAIRPERSON: I am done from my side. Any follow-up questions?

ADV JANNIE LUBBE SC: I do not have a follow-up question. Thank you, Mr Commissioner.

CHAIRPERSON: Suggestion?

10 **ADV JANNIE LUBBE SC**: Before we adjourn. Mr Commissioner, with your leave. Dr Matjila, it was brought to my attention by the Media Department, during the lunch adjournment, that it has been reported in a daily newspaper that this Commission treats you unfairly. I was also mentioned as playing the man and not the bull. Can I just asked you: Have you ever felt uncomfortable in this Commission? That you have treated unfairly? That you have been questioned unfairly? That we play you and not the bull?

DR DANIEL MATJILA: I think, Commissioner. Generally, I feel comfortable, but there will be instances where this issue of power is
20 mentioned in this Commission. You know, that I am a powerful man and you know, that worries me because it has implications in terms of how I respond to matters and what I can respond to and not respond to.

I think I was happy with the Commission, you know, I was listened to, this morning. IN terms of what is it that I can respond. What is it that I know. You know. As the CEO of the PIC versus an

Executive Director and an employee. So, I think that was dealt with properly. And beyond that, I have never felt uncomfortable with the Commission.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

MR EMMANUEL LEDIGA: Do you feel we are fair?

DR DANIEL MATJILA: I think the questions are fair.

MR EMMANUEL LEDIGA: Ja, ja.

DR DANIEL MATJILA: Ja. They very much fair in engaging. You know. The only problem was the power thing. [laughs]

10 **MR EMMANUEL LEDIGA:** Okay, all right.

CHAIRPERSON: Well, even the media has spoken about power.

DR DANIEL MATJILA: But it does not mean the Commission must say I am powerless. [laughs]

MR EMMANUEL LEDIGA: Ja, we need to disempower you.

[laughs]

20 **DR DANIEL MATJILA:** I am more than comfortable, Commissioner. I want to put it on record. That I am more than comfortable. I have been... I have come to this Commission, you know, to make a contribution and I am sure I have been given space to that, without any fear.

MR EMMANUEL LEDIGA: Yes, yes. The key thing for the Commission is to find the truth. You know. So as we probe, that is all that we are a looking for. We are not after the man or after the people. We are after the truth. That is the key thing. But you can assist us to get there. That is the most important thing.

CHAIRPERSON: And can I say. And I would be worried if anybody were to say that you were a trick question was thrown your way.

DR DANIEL MATJILA: Sorry, Commissioner?

CHAIRPERSON: I say, I would be very worried if anybody were to say or allege that a trick question was thrown your way, trying to trick you into a corner. I do not think there has been that such or that kind of question that was thrown at you. Or do you think there were some questions which were meant to trick you?

DR DANIEL MATJILA: No, I think that was fixed very quickly.
10 Because, there were yellow cards that were produced under the table at some point. [laughs] But we were able to resolve those, Commissioner.

CHAIRPERSON: Thank you. The suggestion is that we break here for the day.

ADV JANNIE LUBBE SC: Yes, thank you, Commissioner. Can we adjourn until half past nine tomorrow morning?

CHAIRPERSON: Yes, indeed. We shall then adjourn until 09:30 tomorrow morning.

INQUIRY ADJOURNS TO 23 JULY 2019

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