

COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT CORPORATION

HELD AT

TSHWANE, PRETORIA

10

23 JULY 2019

DAY 58

20

PROCEEDINGS HELD ON 23 JULY 2019

CHAIRPERSON: Morning everybody.

ADV JANNIE LUBBE SC: Good morning Mr Commissioner and members. It's good to have a full house again Mr Commissioner. We are ready to proceed and Dr Matjila is still under oath but perhaps he can just be reminded of that.

CHAIRPERSON: Where are we at para 567 which is the old 566 in the statement?

ADV ALEXANDER ROELOFSE: Yes we are on page 193.

10 **CHAIRPERSON:** Yes. Dr Matjila you're still under oath.

DR DANIEL MATJILA: Yes Commissioner, thank you. We are dealing with terms of reference 1.5; 1.7; 1.8 and 1.9. Okay thank you Commissioner. Insofar as the approved and signed minutes of the Board meeting of the 29th September are concerned it must be born in mind that I was recused from that meeting. I must state that it is normal procedure for the Co Sec to prepare a draft of the minutes which is then circulated to the Board and revised and refined by the Board to ensure that it accurately reflects the important features of the particular Board meeting in question and then subsequently approved
20 by the Board and signed by the chairperson.

The approved and signed minutes therefore reflect the consensus of the Board as to the content of the Board meeting and this has always been the practice. This is also what Budlender SC found in paragraphs 148 to 153 of his report.

I know that Ms Mathebula was of the view in her testimony before this

Commission that in her opinion one of the effects of this editing of minutes down to the resolutions taken was that criticism by the Board of the CEO's involvement in securing funding for Ms Pretty Louw's company was effectively excised from the record thereby sanitising the minutes. Her opinion clearly shows her lack of understanding of the review and refinement process of draft board minutes. The mere fact that certain information contained in the draft was reviewed and ultimately not included in the approved and signed minutes does not mean that such information has been ignored or swept under the carpet
10 or that minute has been sanitised.

It is in-contrivable that the allegation concerning MST and Pretty Lou were investigated by the Board which required both the CFO and I to respond to and we deal with those allegations which we did in a comprehensive fashion. Ms Mathebula is among the employees that are appointed into my new executive team from 2015. I appointed her as a company secretary, I was very excited to appoint a very qualified and experienced female company secretary into the PIC even though I was concerned about her links to South African Express Airways and the fact that she has been there for a short period, in fact her CV
20 shows that she has changed jobs frequently in her career, I decided to take a chance.

I was concerned when the then Chairman of the PIC, Mr Mcebisi Jonas told me that Ms Mathebula is trying to arrange private meetings with him without my knowledge and he refused. This is her *modus operandi* as she was able to do the same with Dr Mkhwanazi and Mr Sfiso

Buthelezi. She worked very closely with them, meetings were held without my knowledge.

The confidential information concerning the discussions of the Board meeting of the 29th March 2017 about the Minister of Finance, Mr Pravin Gordhan's requested amendment to the MIO were leaked to the media without the requisite authority and also not within the confines of the Protected Disclosures Act.

In the disciplinary hearing of Mr V Menye and Mr S Mayisela the attorneys, Mabuza Attorneys, presented as evidence in defence of the
10 disciplinary of the two the two sets of PIC Board minutes relating to the special Board meeting of the 15th September 2017. Let me repeat that Commissioner I don't think I was clear there.

In the disciplinary hearing of Ms V Menye and Mr S Mayisela their attorneys, Mabuza Attorneys, presented as evidence in defence of their disciplinary two sets of PIC Board minutes relating to the special Board meeting of the 15th September. A draft unsigned copy and Board approved minutes signed by the Chairman Mr Sfiso Buthelezi. I was concerned as to how the Board's confidential information find its way into a disciplinary hearing without specific request from the attorneys
20 concerned to HR for this documentation. The disclosure of this set of minutes to Ms Menye, Mayisela and their legal representative Mr Mabuza was done without the requisite authority and also not within the confine of the Protected Disclosures Act. From there the two sets of minutes were disclosed to further third-parties as they found their way as annexures to Mr Holomisa's application to court for my suspension.

I called the company secretary to explain how PIC Board minutes found themselves in a disciplinary hearing and a court application. She told me that she has no knowledge how this document were accessed by external parties. I instructed the Executive Head of HR to investigate. Ms Mathebula was placed on precautionary suspension. Immediately her laptop was taken by forensic investigators for imaging. A few days later the South African Police Services arrived at the PIC with a search and seizure warrant to confiscate Ms Mathebula's laptop. Fortunately our investigator had already copied the data, it was taken away for
10 weeks.

Subsequent forensic investigations by Sizwe Ntsaluba Gobodo Forensics revealed that both sets of minutes had been downloaded from the company secretary's laptop to a memory stick and was thereafter copied onto Mr Mayisela's laptop. This was dealt with extensively in her disciplinary findings, annexure DD46 and by Mr Chris Pholwane before this Commission. The only logical inference is that this was done by the company secretary, Ms Mathebula, and contrary to the internal policies of the PIC since neither Ms Mayisela nor Menye were ordinarily be entitled to be in possession of Board documentation
20 and conversely Mathebula was not authorised to provide non-board members with Board documentation without specific authority to do so. This disclosures impacted negatively on the integrity of the PIC as they were then subject of numerous media reports portraying the PIC in a bad light. As a result of a disciplinary enquiry conducted by an independent chairperson Ms Mathebula was charged with and found

guilty of distributing and/or copying confidential PIC information which it was found she had disclosed such to third-parties without the requisite authority and not in accordance with the Protected Disclosures Act. The appropriate sanction recommended by the independent chairperson was her dismissal. However, despite the finding as to her guilt and the dismissal recommendation she was instead reinstated back into her position as company secretary. These events occurred after I have left the PIC and I am given to understand that the chairman, Mr Mondli Gungubele who it will be recalled had
10 previously pressured me to suspend or postpone her disciplinary enquiry used his casting vote to secure her reinstatement. How her reinstatement could possibly be justified is beyond me.

Furthermore as a result of a disciplinary enquiry conducted by an independent chairperson, Adv N A Cassim SC Mr Mayisela was also charged with and found guilty of distributing and/or copying confidential PIC information which it was found he had disclosed to third-parties without the requisite authority and not in accordance with the Protected Disclosures Act. The appropriate sanction recommended by the independent chairperson was his dismissal and he was indeed
20 dismissed in accordance with that recommendation.

Ms V Menye, she joined the PIC in November 2016 from the Road Accident Fund replacing Mr Luyanda Ntuane. I was very excited by this appointment although again I had some reservations with the performance of Road Accident Fund itself. Nonetheless I was excited to appoint a female to lead the IT department. I was surprised when

she stated in her qualifications to the Commission that she was still studying for an MBA as she gave me an impression in the interview with her at the PIC that she was very close to completing the degree.

I soon realised shortly into her job that Ms Menye is not so reliable. Just shortly after the PIC moved offices from River Walk to Menlyn Maine I learnt from the CFO that there was an IT crisis that affected PIC servers. This crisis resulted in the PIC server environment being rebuilt without the involvement of either risk or internal audit. When I eventually confronted Ms Menye she told me that there was a power
10 surge and the PIC uninterrupted power supply system failed to kick in and thus destroying all servers.

On about 6 July 2017 Ms Menye and some of her team spent the whole night rebuilding the servers without any supervision and without the knowledge of the executive. No one knows what was done to the servers and how they were configured.

Shortly thereafter the second James Nogu e-mail arrived on the 5th September 2017 attaching a confidential PIC memorandum dealing with MST application for funding which had served before portfolio management committee. This confidential memorandum would have
20 been stored on the PIC server and could only have been accessed by a PIC employee. Plainly it was disclosed to a third-party, James Nogu, without the requisite authority to do so and not in accordance with the Protected Disclosures Act.

On 13 September there was another James Nogu style e-mail this time from ... (indistinct) which contains certain confidential information

about salary adjustment for the PIC Exco members. Once again this confidential information would have been stored on the PIC server as part of the human resources and remuneration committee's documentation as well as part of the Board documentation, the Board having approved the adjustments which were recorded in a Board minute and could have only been accessed by a PIC employee. Plainly it was also disclosed to a third-party ... (indistinct) without the requisite authority and not in accordance with the Protected Disclosures Act.

I had scheduled a meeting with BCX at the office of the PIC on the 18th
10 September 2017 in order to bring them on the scope of work to be performed by them. On the 18th September Ian Russell the CEO of BCX confirmed the meeting by means of an e-mail address to me on behalf of the PIC. A copy of this e-mail is attached and marked DD75. Furthermore on the 19th September I had briefed the PIC Exco on my intention to use an IT company to protect PIC confidential information and to find the source of leaks of such information to third-parties. Lastly on 20th September another e-mail from James Nogu was received this time containing a reference to my "discussions with CEO of a well-known IT company" which I assume is BCX "in order to hack into
20 laptops, iPads and cell phones of various PIC employees". Of course my intention regarding the employment of BCX has been deliberately misrepresented by James Nogu but the content of the e-mail arose from my attempts which I have detailed above to protect PIC confidential information and discover the source of leaks of such information.

Of course the fact of my meeting with, amongst others, the CEO of BCX

and their intended mandate was information confidential to the PIC and which was stored on the PIC server. in the case of Russell's e-mail dated 18 September to me and which was within the knowledge of Exco members insofar as my briefing to them was concerned. Plainly a PIC employee accessed the 18th September 2017 e-mail from Russell to me and disclosed it to a third-party James Nogu and/or one of the Exco members disclosed his/her knowledge of the brief into this third-party both actions without the requisite authority and not in accordance with the Protected Disclosures Acts.

- 10 Since no one at the PIC has ever claimed to have accessed or disclosed the confidential information referred to above with the requisite authority it can safely be assumed that the access and disclosure of this confidential information was contrary to internal PIC policies.

I don't believe Ms Menye understands the role of the key individual in terms of FAIS Act. By giving super admin rights to a junior staff member such as Mr S Mayisela she exposed the PIC to serious risk. Mr Mayisela has admitted in his statement to this Commission that he used the keys to heaven to spy on me and pass confidential information

20 to South African Police Services which is a clear contraventions of FAIS Act. At the very best she was obliged to tell me or even if not me her direct line manager the CFO of his bestowal with the keys to heaven.

According to his own testimony before the Commission Mr Mayisela admitted to disclosing confidential information to third-parties without the requisite authority and not in accordance with the Protected

Disclosures Act. Much of the confidential information provided by him also ended up in the hands of the media for example Lancaster and Ayo documentation.

The above all goes to show that plainly the PIC did not have adequate measures in place to ensure that confidential information was not so disclosed. When I demanded to know who else was given keys to heaven and the passwords of key applications within the PIC I was exercising my authority to secure the PIC environment as expected of a key individual. I never said to her I own the PIC. This is a statement
10 she made to cause sensation calculated to discredit me and damage my reputation. I treat all my colleagues with respect even when I'm extremely angry.

ADV ALEXANDER ROELOFSE: Dr Matjila if I can just pause there. I don't have any further questions Commissioners on this section of the evidence.

CHAIRPERSON: Mr Lubbe?

ADV JANNIE LUBBE SC: Mr Commissioner I have a couple of questions. Dr Matjila in your statement you refer to in paragraph 580:

20 "On or about 6 July 2017 Ms Menye and some of her team spent the whole night rebuilding the servers without any supervision and without the knowledge of the executives. No one knows what was done to the servers and how they were configured."

Would you agree it's a clear implication of Mrs Menye being engaged with some unauthorised type of behaviour?

DR DANIEL MATJILA: Yes I would definitely agree with that Commissioner.

ADV JANNIE LUBBE SC: Now Mrs Menye sent me, she's very upset about this testimony of yours, and she sent me proof that on the 6th November, so sorry, that first of all on the 6th June 2017 she was with you attending international investment course at Fordham with Deon Botha, Vuyani Hako, Lufuno, Fidelis and Bongani is that correct?

DR DANIEL MATJILA: Yes.

ADV JANNIE LUBBE SC: She has also provided me ... (intervention)

10 **DR DANIEL MATJILA:** Apologies Commissioner, what is the date again?

ADV JANNIE LUBBE SC: June not July, June.

DR DANIEL MATJILA: In June yes probably ja.

ADV JANNIE LUBBE SC: And then she has also provided me with e-mails, if I can just find it. On the 7th July she has sent e-mails to all users at PIC:

“Kindly take note that the following IT applications are inaccessible due to the power related interruption last week.”

She notified everybody.

20 **CHAIRPERSON:** Adv Lubbe we're finding it difficult to hear you, to make out what you're saying so please pull your mic closer.

ADV JANNIE LUBBE SC: Thank you Mr Commissioner. What I have in front of me and I can make it available to you, is e-mails from the information technology services dated 6 July, there were three on the 6th July, one on the 10th July from IT advising all users about the power

failure and she has also provided me with a detailed report from the consultants who were involved in assisting with the repair of the service. Can you deny that?

DR DANIEL MATJILA: Commissioner all of those were done afterwards, after I raised this matter. I think what we are saying here is that the whole rebuilding of the server was not supervised, you can check with risk, you can check with internal audit they were not part of the process of rebuilding. The other reports we actually had to force, had to commission so we can understand what happened, was it really
10 a power surge or what is it but what we don't know is what's the nature of the work that was done on the server or in rebuilding the server environment of the PIC.

ADV JANNIE LUBBE SC: But you don't deny that she provided reports of the independent service provider who assisted ... (intervention)

DR DANIEL MATJILA: Yes that's not in relation to the server, this is in relation to the power surge because that's what they were saying there was a power surge, that was done Commissioners.

ADV JANNIE LUBBE SC: Okay the second ... (intervention)

MS GILL MARCUS: Sorry Adv Lubbe before you move on from that, I'm
20 just a little unclear. The communication from Ms Menye to a range of people was while they were attending to the matter of the power surge?

ADV JANNIE LUBBE SC: Correct, correct it's the same date the 6th July.

MS GILL MARCUS: Therefore if there was a concern about others being involved as the CEO or risk say hang on why you looking at that

let us get us involved, you know if that's the standard procedure then the question for me would be what steps were taken either by yourself or risk or audit to say while you're looking at this matter you're hot on it at the moment, we're bringing our teams to also see what was happening. Was there any response to the fact that she had informed a range of people at the time we're working on this there's a power surge this is what's happening it's up, it's down, it's not happening whatever the case may be in according with those e-mails because to do it subsequent is one thing to say okay this has happened in keeping with
10 practice internal audit, risk please go there right now and ensure that we see what's going on here. Were any steps taken or was it only subsequent that you said give us the reports?

DR DANIEL MATJILA: Yes it was after, I was not aware that in the process of rebuilding the server risk and internal audit were not invited to ... (intervention)

MS GILL MARCUS: Why would they have to be invited it's their job? The question is this has happened, she's notified you, if I see this is happening I'm internal audit I know I need to go there and see it, it may well be that you need to invite but it also may well be that I'm
20 exercising my role and responsibility and you know especially if there's been concerns about the servers that risk, internal audit, yourselves, whoever else in your executive heads to say hang on a second this is unusual, it's untoward let's go and have a look. Why would you wait for an invitation?

DR DANIEL MATJILA: I'm not in a position to answer for internal audit

and risk they should be part ... (intervention)

MS GILL MARCUS: Did you ask them?

DR DANIEL MATJILA: They should have been part of the process.

MS GILL MARCUS: Sure but did you ask them why you guys didn't proactively make your presence felt, you're the CEO or the CFO or one of you to say hang on a second practice should be that you guys are present?

DR DANIEL MATJILA: Ja all of them say they were not invited, they didn't know what was going – I mean they didn't know that the servers
10 were going to be rebuilt, nobody told them that the servers were going to be rebuilt. So they just thought this is a power surge it can be handled in the normal course of business but they only discovered afterwards that actually the servers were rebuilt for the entire night we understand.

MS GILL MARCUS: And then did they go as risk etcetera to say take us through what you rebuilt, what was wrong and that was the report that you then got?

DR DANIEL MATJILA: I have understand they have done so.

MS GILL MARCUS: So therefore in, I mean the question I'm raising
20 because the way you've presented it is there was *mala fides* by excluding them. If I was IT my job is to get it up and running as quickly as possible I'm going to see what happened, it's a power surge it might need something else, it's all happening at the same time and if I understand you correctly Adv Lubbe there were a series of communication it wasn't just oh this has happened, it was a series of

communication nothing where things were at?

ADV JANNIE LUBBE SC: Ja perhaps if I can assist, let me read it into the record. On Thursday 6th July at 09:49 an e-mail to all users at PIC:

“Colleagues kindly note that we are currently experiencing challenges with critical business applications due to overnight power interruptions. The IT team is currently restoring the IT services. The IT department will inform you upon resolution of this case.”

Then on the same day at 18:05:

10 “Dear colleagues kindly note that we are still experiencing challenges with critical business applications due to overnight power interruptions. The IT team is currently working towards the resolution of the impacted IT services. Will inform you upon resolution of this matter.”

And on the next date at 10 to 12:

“Kindly note that the critical business applications which were rendered inaccessible due to power interruptions are now accessible. The IT team will continue to monitor and ensure stabilisation of the impacted business applications.”

20 Those were the three e-mails sent to all users at PIC by the IT department.

MS GILL MARCUS: Thank you.

ADV ALEXANDER ROELOFSE: Sorry can I just place on record Commissioners we haven't seen this documentation, Dr Matjila hasn't seen this documentation. Perhaps he would be in a better position to

answer these questions if he had seen this documentation.

ADV JANNIE LUBBE SC: It is available, I'll make it available to Dr Matjila Mr Commissioner.

CHAIRPERSON: I suppose Mr Roelofse would prefer then to be before Dr Matjila as he's asked the questions?

ADV JANNIE LUBBE SC: Yes, no accept that and I apologise for that, I only received it this morning in preparation of this evidence of Dr Matjila. But we can perhaps deal with it later then. The other issue ... (intervention)

- 10 **DR DANIEL MATJILA:** But I think to make it clear that informing staff in this manner it's normal, if systems go down they will send out e-mails to say we are experiencing this and that you know. But the issue of rebuilding a server is different, that's significant and it has to be handled differently because then the whole organisation comes to a standstill, there's no work you know done and then risk and other executive will have to get involved as a normal process of dealing with matters like this. The CFO has to be involved because all of them reports, he's responsible for operations to make sure that the teams are to the- but she was not informed either that servers are going to be
- 20 rebuilt. We have such a big crisis that servers are going to be rebuilt from scratch so that she's able to put together a supervisory team to ensure that whatever is done is documented properly. That's what I thought I should put on record.

ADV JANNIE LUBBE SC: Thank you, Dr Matjila. When this was discovered that this was done without involving risk, did you take any

steps against Ms Menye?

DR DANIEL MATJILA: No, we didn't take any steps but we asked for proper explanation as to what changes have been made on the server.

ADV JANNIE LUBBE SC: And that was supplied?

DR DANIEL MATJILA: That was not supplied.

ADV JANNIE LUBBE SC: That was not supplied?

DR DANIEL MATJILA: I still don't know up to this moment what was done on the servers.

ADV JANNIE LUBBE SC: Okay.

- 10 **MS GILL MARCUS:** Sorry, just before we move from that because again Dr Matjila, it's a question that says, are you passive or active in the role?

If we see something like that and the CFO knows that that is something that she should be aware of and is not aware, what steps are taken? Did the CFO did risk did audit go along and say, let us go through this with you? It's not just asking for the report, there's an active role that says let us go through this with you it is of concern. If you because when is this, 2017? When did this occur? July 2017.

DR DANIEL MATJILA: 2017.

- 20 **MS GILL MARCUS:** In the next- that's plenty time for there to be a follow up especially if you say this information was not there and provided to you by the end of the time you left. Those are critical issues because you've had disciplinaries, you've had dismissals, you've had all kinds of stuff and the question for me as CEO or CFO, what is your active role in terms of ensuring the very issues you raising?

That you were concerned that there were adjustments made to that and while you've put on record that this was a concern, absolutely I agree with you. But the question that I'm asking is, it's not just for noting, it's a question then what followed through? What followed through from the CFO, from risk, from audit to say we then looked at this and we have now got- it's not whether you gave us a report. We're going to sit down with you, we've got this report on it exactly that was done in that process.

So that you clear your mind that there was no inappropriate
10 interference because that's the implication of your statement is that there could have been improper interference with the system. And therefore it behoves you to take steps to see that there wasn't even if there's no mala fides, even if there's no distrust whatsoever. There's checks and balances that are required and yet seemingly your response is, we were waiting for an invitation.

DR DANIEL MATJILA: We've asked those questions, explanations were made which were not corroborated by any report because as I said risk and internal audit were not involved, were not there to see the changes and record them as they should. We only accept what we
20 were told although we had reservation, I still have reservation as to what was done there.

MS GILL MARCUS: But that's the point I'm trying to engage you on Dr Matjila. Is you as a CEO and the CFO, the two core execs, if you have reservations what steps do you take to address them? Because you're not passive in that circumstance, you're exercising your responsibility

to protect the organisation.

But what you saying you still have reservations so what steps- I mean not just for yourself at the time but we go through it step by step, exactly what did you change, with who and especially given what came out around Mr Mayisela. Ja.

DR DANIEL MATJILA: I will leave that and put on record that I was concerned. I've asked questions, I didn't get the answers to my satisfaction up until today.

MS GILL MARCUS: That's fine.

10 **DR DANIEL MATJILA:** That's why I'm raising it in the statement.

MS GILL MARCUS: Okay. No, that's fine. Thank you.

DR DANIEL MATJILA: But I accept what the Commissioner is saying, thank you.

ADV JANNIE LUBBE SC: The second point with regard to evidence you testified about that was found- the minutes that was part of the brief of the lawyers Mabuza appearing for Mayisela and Menye at their disciplinary hearings. Just to get it clear and on record. No hearing started with Ms Menye, there was no evidence led in her disciplinary matter, is that correct?

20 **DR DANIEL MATJILA:** I was not part of the process. All I know is that there was a disciplinary hearing where they were involved.

ADV JANNIE LUBBE SC: Well, her evidence was that the hearing never started and that she was told by the chairperson that the PIC don't want you, and you must look at a settlement. And on that basis then that she entered into a settlement agreement with the PIC.

DR DANIEL MATJILA: Commissioner, I don't know that detail. Chris Pholwane was here, I think he must have explained what happened at that disciplinary hearing. I'm not in a position to dispute not to I mean agree with the evidence leader on this point in particular.

ADV JANNIE LUBBE SC: The point she's making and she sent me text messages to clear it up is that the minutes that you refer to were not part of any evidence in her disciplinary hearing because the hearing never started.

DR DANIEL MATJILA: Commissioner, I think Chris Pholwane will be in
10 a be in a strong position to deal with that.

ADV JANNIE LUBBE SC: Right.

DR DANIEL MATJILA: Ja.

ADV JANNIE LUBBE SC: The third but and last ... (intervenes)

DR DANIEL MATJILA: But what I'm saying here Commissioner is that those minutes were found in the- the attorneys of the two employees.

CHAIRPERSON: How did you get to know this?

DR DANIEL MATJILA: I was told that the minutes were found in the bundle of ... (intervenes)

CHAIRPERSON: By whom? Told by whom?

20 **DR DANIEL MATJILA:** By Mr Pholwane.

MS GILL MARCUS: Sorry, can I just ask in relation to that. Did you not have to approve the settlement of 7.5 million rand? Was it not brought to you attention that this was the amount of the settlement?

DR DANIEL MATJILA: It was it was brought to my attention.

MS GILL MARCUS: And you approved it?

DR DANIEL MATJILA: Yes, we did approve it on advice that it's the best. It's been negotiated although I had reservations but we approved.

ADV JANNIE LUBBE SC: Dr Matjila, it happened now after your departure but are you aware of the fact that the board has now taken the view that Pholwane was not properly authorised by you to sign the settlement on behalf of the PIC because you didn't authorise him in writing to sign the agreement? Do you know about that?

DR DANIEL MATJILA: I've heard about it. I have not seen any-
10 nobody has communicated with me formerly on this matter.

ADV JANNIE LUBBE SC: And did you also hear that the board took a resolution to reinstate Ms Menye?

DR DANIEL MATJILA: I heard about it. Again, there's nothing- no communication that came my way. These are all things that I hear.

ADV JANNIE LUBBE SC: The last point I just want to raise with you is that in 591, paragraph 591, you talk about Ms Menye giving super admin rights to a junior staff member such as Mr Mayisela.

My instructions and information are that Mr Mayisela was never a junior staff member and I've requested his role description and task
20 assignment at the PIC and it says ... (intervenes)

DR DANIEL MATJILA: Can I deal with that quickly?

ADV JANNIE LUBBE SC: Sure.

DR DANIEL MATJILA: This is not in the context of the position that he hold but it's- okay Commissioner, apologies.

ADV JANNIE LUBBE SC: But the point I'm making is that he is- he

was appointed as the senior manager information, security, risk management and IT governance and the first KPI of his job description is and the purpose of his role is responsible for the development and implementation of PIC information, security and IT risk management strategy in line with PIC business strategy.

The point I'm just raising with you, in the IT department he was second in charge, is that not correct?

DR DANIEL MATJILA: That's correct but in this context he's junior to the executive.

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

MS GILL MARCUS: I really just have one additional question.

Is in paragraph 580, you indicate that you soon realise shortly into her job that Ms Menye was not so reliable. What steps did you take in relation to that? Did you raise it with the CFO? Did you put on some kind of management process sort of measures to look at what your concerns were? I mean this is head of IT, one of your most critical functions and if you say you realised she was not so reliable, what measure did you or you discussed with Ms More to take?

20 **DR DANIEL MATJILA:** Commissioner, it's a difficult question I mean the best I could do was to make sure that I scrutinise anything that she tells me.

MS GILL MARCUS: Sorry, I can't hear you.

DR DANIEL MATJILA: The best I could do from my side was to be more careful, scrutinise every response that she gives me.

MS GILL MARCUS: Did you discuss it with Ms More? IT was reporting to Ms More.

DR DANIEL MATJILA: I think we did discuss several times that we ... (intervenes)

MS GILL MARCUS: And did she take any steps as a reporting entity to her to give you assurance that measures were being taken? And was Ms Menye on a probation period in which you could say we would assess it in six months? See what's happening.

DR DANIEL MATJILA: Ja, she was on probation but as I said she
10 reported to Ms More.

MS GILL MARCUS: But if you had concerns shortly after she started and this whole incident occurred in July, that's roughly six months. So by the time July would have come, her probation would have been over. Were there any concerns expressed to her formerly as required at the end of a probation period to confirm her appointment or otherwise?

DR DANIEL MATJILA: I don't remember that being done.

MS GILL MARCUS: Thank you.

MR EMMANUEL LEDIGA: Just a couple of questions here.

20 Just in terms of the- there was a big issue about is the PIC board a management board versus a supervisory board? And so I just want to understand something here. Can the PIC board sort of suspend / fire people and reappoint them, where the case of say Fidelis Madavo and Victor Seanie and then the other side is Ms Mathebula and Ms Menye? So what kind of a board is the PIC board? Am I clear about that that can they ... (intervenes)

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: Hire and fire people or is that the CEO's role?

DR DANIEL MATJILA: The MOI, it's just that I don't know which one I'll be referring to because we seem to have crisis of an MOI here but the MOI is clear that the board appoints the CEO in consultation with the minister, I think that's how it's framed. And then the CEO then appoints in consultation with the board, that's my understanding of the MOI. And then further on there is the portion of the delegation of
10 authority that deals with disciplinary hearings as well as dismissal of which my understanding is that most of the power for anyone below the CEO rest with the CEO and not necessarily the board.

I think we can look at the delegation of authority at some point just to see what it says about those because my believe is that the CEO has to be the one initiating any disciplinary process and finally recommend into the board on dismissals and those kinds of things. Ja, and not the other way around.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: Because the board doesn't run the business on
20 a day to day, that's the CEO and executives that take responsibility for that. So they'll be in a better position to understand issues around employees including executives for that matter.

MR EMMANUEL LEDIGA: So are you saying then to hire the executives, the CEO must still consult the board or even to fire them the CEO must still consult the board? Is that what you are saying?

DR DANIEL MATJILA: I mean that's how I have operated on any matter that involved senior members. I would consult with the board on such matters.

MR EMMANUEL LEDIGA: Yes, but what do you mean consult? I mean do you mean that the board can veto this or the power stays with you or it stays with the board?

DR DANIEL MATJILA: I mean in my experience all the advice or decisions that I've taken, the board has always supported.

MR EMMANUEL LEDIGA: Ja.

10 **DR DANIEL MATJILA:** The board has always supported on the basis of reasons and context that I give to a particular issue.

MR EMMANUEL LEDIGA: Ja. I'm not ... (intervenes)

DR DANIEL MATJILA: So in short we've never fired somebody without process in other words. If you look at all these cases here, there's been a disciplinary process and a recommendation from an independent chairperson that says we recommend this and that decision rest with the CEO if it's executives.

20 But the CEO has to out of courtesy inform the board that there is this recommendation and I agree with it. I think we need to terminate employment of so and so.

MR EMMANUEL LEDIGA: Alright. Ja.

DR DANIEL MATJILA: That's how we have operated in this.

MR EMMANUEL LEDIGA: Okay.

DR DANIEL MATJILA: There's never been a situation where I had to fire someone without the process.

MR EMMANUEL LEDIGA: Ja. Okay alright, thanks.

Next one is you say that Ms Mathebula she sort have had secret meetings with Mr Buthelezi and who?

DR DANIEL MATJILA: Mkwanazi.

MR EMMANUEL LEDIGA: And Dr Mkwanazi.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: I mean wouldn't as a company secretary I mean wouldn't she actually be meeting the chairperson or deputy chairperson? I mean can't she do that?

10 **DR DANIEL MATJILA:** She can do that but I would expect the CEO to be informed of the nature of the meetings. Because at the end of the day any agenda or whatever issues that have been raised, the CEO has to okay. It can't be a discussion between the chairman and the company secretary only without the executive in setting meetings and agenda and those kinds of things.

MR EMMANUEL LEDIGA: Okay, so are you saying that the CEO must know the interactions?

DR DANIEL MATJILA: Yes.

20 **MR EMMANUEL LEDIGA:** And then just in terms of Mr Mayisela. I mean he was at the PIC for three months before this James Nogu thing happened.

According to you I mean what could have caused such a collision between the two parties or two factions and all that? I mean he was there for three months, what triggered these issues? What could have been? I mean he was still getting to know the company and the people

and all that.

DR DANIEL MATJILA: I think he was less than a week when the first James Nogu email on the 6th started. There was a James Nogu on the 30th if you recall there to Roy and then the 6th there was now this PIC CEO funds girlfriend email. So the James Nogu started very early after Mr Mayisela joined the PIC. So the three months that he stayed there was in the middle of this James Nogu and all kinds of allegations.

MR EMMANUEL LEDIGA: Yes. But what could have triggered, I mean when he was here he said he was fighting corruption fighting these
10 issues but I mean he was there for a week when this thing broke out. What could have triggered this fight, he was fighting?

DR DANIEL MATJILA: I have no idea Commissioner. I have no idea. I don't have answers. I can't help you with this one, unfortunately.

MR EMMANUEL LEDIGA: Alright. Okay.

Next one is on Victor Seanie and I wanted to check with you, Victor Seanie said there was a time either sort of he was meeting you or he heard that you said that he needs to be careful because the then NPA will come after him or so. Can you remember that?

DR DANIEL MATJILA: I remember quite well. He came to my office
20 saying that he received a call from someone I think he mistook the public protector for NPA. It was the public protector office that called him. I think it's the office of the deputy public protector that called him and he raised this matter with me and I said to him, well it's the public protectors office, let's hear what they want.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: And there we need to cooperate as they have asked quite a number of questions from the PIC in the past.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: So it was not the NPA?

DR DANIEL MATJILA: It was not the NPA it was the public protectors office.

MR EMMANUEL LEDIGA: Okay.

DR DANIEL MATJILA: Ja.

10 **MR EMMANUEL LEDIGA:** Okay alright.

And then the next one is on when you- people like Ms Menye, Ms Mathebula, Mayisela and they had others, they came to the Commission and said the investigation and the disciplinaries caused them a lot of money. Some got very ill, it was such a trying period for them.

Do you have any comments about that, financial loss and emotional struggles and all that? It was a traumatic and they mentioned that the PIC what they could do is just got the money to pay the lawyers and just draining them.

20 **DR DANIEL MATJILA:** Commissioner, if we were able to avoid these sorts of things from happening, it is unhealthy I mean everyone suffers in this kind of process. We are now in the inquiry here also being subjected to the same kind of process which is uncomfortable, very expensive in many ways but unfortunately if there is a big issue it can't be dealt with differently other than the process that is one that we have

to go through.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: It's regrettable. It's not something that you want in an organisation that has been quiet and very friendly, very peaceful for a long long time until a certain cabinet reshuffle and then it change into something else.

MR EMMANUEL LEDIGA: Alright. Just in terms of one of our terms of reference. It talks about how the PIC can protect its information.

What in your view can be done to protect that sort of in the
10 future to do that? Sort of how can the PIC protect its information?

DR DANIEL MATJILA: Ja. I think we engaged the technical experts on that and they had already put together a comprehensive plan on how the PIC can protect its information.

By in large what gave me comfort with the approval by the board to try and protect the PIC from further attacks was that the attack was actually from the inside. I could proof that PIC is fully secured from external attack so all of this were happening internally.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: Which was comforting but then there had to be
20 processes and systems configuration internally to try and circumvent this kind of things happening internally. And that plan was in place being implemented when I left.

MR EMMANUEL LEDIGA: Okay, then the ... (intervenes)

DR DANIEL MATJILA: That will include electronic record keeping and logging in, a whole lot of measures I mean that were proposed.

Encryption of systems, we went through an extensive IT security course for the entire organisation. Electronic based and everyone had to take it or else you wouldn't even log in into the system and work if you haven't passed.

And so we started with a serious IT security awareness and training. By the time I left I think the entire staff would have gone through it and the support and configuration of systems through this technical advice.

MR EMMANUEL LEDIGA: Alright. Final one is and I'm not trying to
10 attack whistleblowers or whatever but the key question remains is that, who is James Nogu? From your point of view and you mentioned people like staff within the PIC whatever? Did they take the info, give it to James Nogu? Who is James Nogu?

DR DANIEL MATJILA: I wish I knew who James Nogu is but I have a view of who this James Nogu could be.

MR EMMANUEL LEDIGA: Yes, please.

DR DANIEL MATJILA: Because it's almost like there's a person that
20 information feeds is fed to and then they write these stories because they have probably a nice secure platform to be able to discharge all this information to third parties, to everyone. Including using social media now lately I mean there's a one called The Observer 101 which I think is now the James Nogu in social media most also doing the same thing.

So looking at some of the statement that were made to this Commission and contrasting that against allegations about James

Nogu, I tend to feel that James Nogu's allegations are supported by certain individuals and package by James Nogu because he's got this technical expertise to do that and then channel it to the public in the manner that they did. And then using the media to sustain the narrative to make it look like real, this is how James Nogu is operated.

So I have a strong feeling that there are a number of individuals that appeared here in this Commission that have supported the strategy of James Nogu. And James Nogu providing the technical platform and the know how to disseminate information to public.

10 I was hoping that with the investigation of the Commission, one day they will say, eureka we have found James.

MR EMMANUEL LEDIGA: Ja, okay.

DR DANIEL MATJILA: But the problem with James is that if this is how James is going to disorganise organisations, he's going to be problematic. And the Commission will have to find a way of dealing with James in a way that they can end this credibility of being a whistleblower.

20 Because at this stage I don't see a whistleblower necessarily, somebody that's damaging people's reputation and so on and by the time you clean, you would have done quite a bit of work and lost a lot of money to clean up. So I don't think James Nogu should be given the status of a whistleblower if that is the manner that he's whistle blowing in my view.

MR EMMANUEL LEDIGA: And what about the feeling that they say that they are fighting maladministration and corruption in the PIC and all

that James Nogu ... (intervenes)

DR DANIEL MATJILA: I accept that but there is a way of doing it in an elegant way. There are other structures that allow a person to raise these matters without damaging people's reputation with false information because if those allegations are incorrect and everyday Matjila appears as headlines on TV that I've received 2.5 million from VBS and the whole public seems to think that that is true.

It becomes problematic now to clean all of that up, very problematic especially people like ourselves who are playing in the
10 financial sector where integrity is integrity, you can't be appointed, you can't be given work if there is doubt about your integrity. So those are the challenges in so far as the way James Nogu is approaching his whistle blowing strategy, I don't think it's the correct one.

In the board within the organisation there is a board, there is a CEO, if they don't trust the CEO there are other channels. There is a secure whistle blowing platform, there is the board as I've said, there is Treasury, the shareholder, clients, there are many ways of raising these matters without damaging people's reputations and image in the manner that James Nogu is doing.

20 **MR EMMANUEL LEDIGA:** Just in terms of the structure, so are you saying that when people – and for now, you know, in the future maybe, is that when people have got big issues with the PIC where could they go, I mean, would they go to the board or whatever or do you think there could be a need for sort of, you know, the ombudsman, an ombuds person for people to give to, you know, to that person for problems that they have

with the PIC whether it's client, like having problems or sponsors or partners and all that because the process seems not to be working pretty well.

DR DANIEL MATJILA: I think it probably has to be removed from the PIC somehow then. If staff is not comfortable in raising this matter within the PIC environment, maybe, Commissioner, as you propose an ombudsman or something, somebody like that that can assist in ensuring that people are quick to – and they are protected, they know that they are protected when they raise these matters the better because the problem
10 here all the time is that they don't feel protected, they don't trust the whistle blowing platform at the PIC.

CHAIRPERSON: Yes.

DR DANIEL MATJILA: Some of them said they don't even trust the board because they believe the board is ...[intervenes]

MR EMMANUEL LEDIGA: Is divided.

DR DANIEL MATJILA: Captured by Dan Matjila and so on, you know?

MR EMMANUEL LEDIGA: Ja, yes.

DR DANIEL MATJILA: Those are some of the things that were raised, I think – I'm sure the PIC somebody smart can come up with a solution
20 towards, you know, handling of issues, you know, whistle blowing in a much more elegant way to allow people to raise, you know, flags when they see them.

MR EMMANUEL LEDIGA: Yes, so it could work if that process is sort of removed from the PIC somehow.

DR DANIEL MATJILA: It may be useful.

MR EMMANUEL LEDIGA: It could work, ja, ja.

DR DANIEL MATJILA: Because within the PIC we've tried – I mean, I've tried many time suggestions box.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: We have a whistle blowing platform, you know, open meetings and every time they raise the fact that they would be victimised they're afraid to come out, you know.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: And so it appears as if James becomes the
10 best, you know, solution for them which is not the best at all, I must say.

MR EMMANUEL LEDIGA: Alright, trying to – then we need to find a way to channel James through some channels that they feel that they are secure and they can say whatever they want to say.

DR DANIEL MATJILA: Absolutely.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: Absolutely.

MR EMMANUEL LEDIGA: And also for people like Madavu who says that his 10% was taken by the PIC for him actually to raise that issue through some channels.

20 **DR DANIEL MATJILA:** Absolutely.

MR EMMANUEL LEDIGA: Because people don't know, I mean once – the PIC is powerful, if it takes your 10%, allegedly taken your 10%, where do you go?

DR DANIEL MATJILA: Ja, I think that will go a long way in dealing with most of the issues, you know?

MR EMMANUEL LEDIGA: Alright. Okay, thank you, thanks.

ADV JANNIE LUBBE SC: Chair, can I just place on fact on record lest we forget these things? Dr Matjila is it correct the email started on the 31 August 2017?

DR DANIEL MATJILA: That's the very first email we saw.

ADV JANNIE LUBBE SC: And is it correct that Mayisela was appointed on the 1 September 20 ...[intervenes]

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

ADV JANNIE LUBBE SC: Thank you.

10 **CHAIRPERSON:** Can I just be reminded, Dr Matjila, the whistle blower's platform or process, how does it work?

DR DANIEL MATJILA: Commissioner, if I may, there is an electronic platform which is secure, a hotline that staff can call and raise their issues directly and this organisation, independent of the PIC will run the process of investigation and the complaint from the service provider will then go to internal audit and risk depending on the nature of the matter then it comes to me if internal audit and risk feel that I'm not implicated. If I'm implicated then it has to go straight to internal – I mean, to the audit committee as well as the board. That's how it gets processed within

20 the PIC.

CHAIRPERSON: But is the identity of the whistle blower protected?

DR DANIEL MATJILA: It's protected, it's protected, Commissioner.

CHAIRPERSON: When the person reports, let's say using the hotline is there somebody on the other side who listens and asks who are you?

DR DANIEL MATJILA: At the service provider?

CHAIRPERSON: Yes.

DR DANIEL MATJILA: The service provider would collect all the information, you know, about the issue and then once they have collected that then they raise it with internal audit and risk.

CHAIRPERSON: And if the matter were later to be referred to you, you would know who the person is?

DR DANIEL MATJILA: No, I wouldn't know who the person is but I will know the matter and then they have to do either an internal investigation depending on the issue, the complexity of the issue or a service provider
10 will have to be appointed to conduct an investigation into the matter that's been raised.

CHAIRPERSON: Yes, okay, thank you.

DR DANIEL MATJILA: And some even go to the stand of going straight to the Public Protector when they don't find joy in the process internally. We've seen that happen.

CHAIRPERSON: And Justice Ngoepe, retired Judge Ngoepe or Judge President Ngoepe, isn't he an ombudsman in the financial sector?

DR DANIEL MATJILA: Yes, I think – I'm not sure which portfolio he deals with. I think it's tax.

20 **MR EMMANUEL LEDIGA:** Ja, I think it's the tax.

DR DANIEL MATJILA: Tax ombudsman, yes. Complaints to SARS, Commissioner.

CHAIRPERSON: So there's no ombud in the financial sector, specifically?

DR DANIEL MATJILA: Not as far as I know, there is tax – I mean,

Pension Fund Adjudicator.

MR EMMANUEL LEDIGA: Yes, there's that one.

DR DANIEL MATJILA: There's that one.

MR EMMANUEL LEDIGA: Short term insurance, there's one there.

DR DANIEL MATJILA: Ombudsman and in long term, yes.

MR EMMANUEL LEDIGA: Yes. There are quite a number actually in the
...[intervenes]

DR DANIEL MATJILA: But the asset management space ...[intervenes]

MR EMMANUEL LEDIGA: It doesn't...

10 **DR DANIEL MATJILA:** That's where we play.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: It's only the FSB I would say or the Financial Sector Conduct Authority. There is no I mean specialised body to deal with complaints and all that in that manner.

CHAIRPERSON: Yes.

MR EMMANUEL LEDIGA: Ja.

20 **CHAIRPERSON:** If I can just go back to what is paragraph 587, that still deals with James Nogu. The question of people saying that BCX was engaged in order to hack into laptops, iPads and cell phones, etcetera, is there any truth in that or did – could they tap into people's iPads and computers?

DR DANIEL MATJILA: Not at all, Commissioner, their brief was very limited. As I explained yesterday, we looked at areas of possible leakages of information and they then were given super admin rights to collect email correspondence in those areas for a limited point of time

and that was taken back and then they were finished with their work. The scope never extended to any of these sorts of things, it was just an allegation, unfounded allegation.

CHAIRPERSON: But why was it necessary to do that, why was it necessary for the service provider to be given access to people's laptops? I mean the aim, surely if I understood the position correctly, was to see how PIC information can be protected. As you say, confidential information in the last sentence of that paragraph. Why is it necessary to go into people's emails and to check their emails and so on?

10 **DR DANIEL MATJILA:** It was necessary to check where – if there's no leakage of information in those departments.

CHAIRPERSON: So they were checking whether the leakage could be in a specific department and so on?

DR DANIEL MATJILA: Absolutely, Commissioner.

CHAIRPERSON: But why was that necessary? I mean surely if you want to protect the PIC's confidential information you do that, not checking first. I mean, to check which department is as much as saying check who it is, who is responsible for the leakage.

20 **DR DANIEL MATJILA:** You need to know where the leakage is so you can plug, if I can put it bluntly, Commissioner. First the leakage has to be established as to where it is. Then you can put measures to protect the leakage once you know where it's coming from.

CHAIRPERSON: Why don't you plug each and every department?

DR DANIEL MATJILA: It's going to be ...[intervenes]

CHAIRPERSON: Without wanting to find out from which department it

comes.

DR DANIEL MATJILA: Commissioner, I'm not sure but that would be quite an extensive exercise, I think, you know, but the advice that we got from the technical experts was that we need to, you know, identify certain areas where we need to start to find out where the leaks are and in that way there would be a process of...

CHAIRPERSON: And that would require checking people's emails?

DR DANIEL MATJILA: Because that's the nature of the leak, emails, you know, are a way of disseminating information.

10 **CHAIRPERSON:** Well, are people then not justified to say they were being spied on?

DR DANIEL MATJILA: Commissioner?

CHAIRPERSON: Are people not justified in saying we were being spied on if their laptops were accessed?

DR DANIEL MATJILA: Commissioner, I'm not sure, I mean, these laptops are not accessed in a secret manner, they know that they're under investigation and we told them albeit uncomfortable, some of them accepted that it's a process that they need to go through, you know, which is no different from any investigation, myself with Budlender had to
20 give them all my – I mean, my computer was imaged and it's a process, unfortunately, that one has to be subjected to.

CHAIRPERSON: Yes but there you were being investigated in the Budlender matter, the investigations were in respect of you.

DR DANIEL MATJILA: Absolutely.

CHAIRPERSON: And here the investigation is not in respect of a

particular employee.

DR DANIEL MATJILA: Commissioner, I mean, the process of investigating something, a leak, leakage of information in this instance, which of course I'm conducting on the basis of board's approval. They gave me a mandate to go and find out where the leakages are and deal with them and the best way of dealing with it was to identify certain areas that we believe could be suspect in terms of leakages, you know, so that was the process. I know it's uncomfortable and people will say that it's spying and call it all the other names because, you know, they are probably angry and unhappy but we have to accept that it's process that we needed to go through although painful.

CHAIRPERSON: But did the investigation only concern laptops or other computers but not the phones?

DR DANIEL MATJILA: No, it was only a few laptops that were looked at, Commissioner.

CHAIRPERSON: Not their phones?

DR DANIEL MATJILA: No, no, not their phones, Commissioner. Not their phones.

CHAIRPERSON: I wouldn't criticise a person who says somebody has accessed my computer, I'm being spied on.

DR DANIEL MATJILA: Ja, somebody accessed your computer and they informed you that they are going to access your computer because it's an issue that needs to be investigated here. It may be - it is uncomfortable, I've experienced it as well, it's very uncomfortable but it had to be done. If there was a better way of doing it, we would probably

have chosen the best way of doing it without causing people this kind of treatment which I don't condone at all. It's not something that I would go for as a first prize to deal with a matter. So it's regrettable, Commissioner.

CHAIRPERSON: Yes, thank you.

DR DANIEL MATJILA: That we had to go through this.

CHAIRPERSON: Mr Roelofse, anything further?

MS GILL MARCUS: I've got a couple. Can I just go back a little bit on that just in relation to this question. Is it something in your employment
10 contract that you have with your employees or the entire staff that they have – that the PIC has the right in special circumstances to look into anybody's computer and see what is happening?

DR DANIEL MATJILA: Commissioner, I'll have to check that but that's not something out of the ordinary that we are doing, in my view.

MS GILL MARCUS: What's not something out of the ordinary?

DR DANIEL MATJILA: Investigation. Investigation takes many forms, you know, so...

MS GILL MARCUS: Sure but the question is in the employment contract that a person gives you the right as part of their employment that should
20 there be any concerns or misdemeanours or investigations that there – because they're doing the work for the organisation, that it's part of the employment contract that you have in those circumstances full disclosed that you have the right of access into that personal – in the same way as we say if you're working you don't do personal work on your work computer.

DR DANIEL MATJILA: We never asked for their personal computers or their personal phones ...[intervenes]

MS GILL MARCUS: No, I'm not asking that, I'm saying ...[intervenes]

DR DANIEL MATJILA: I'm getting to that. Or any personal information that they had. We only took PIC property which they use on a daily basis to conduct their business. That is PIC property and it can be taken any time for whatever purpose the employer would want to use it for.

MS GILL MARCUS: Ja, but that's why I'm asking whether that is made clear in the employment contract or not, that that is a right of the
10 organisation.

DR DANIEL MATJILA: I'll have to check the contract.

MS GILL MARCUS: You're not sure.

DR DANIEL MATJILA: But I would have thought that the contract would say that property of the PIC remained property of the PIC, the employees are ...[intervenes]

MS GILL MARCUS: And you have access to that.

DR DANIEL MATJILA: Employees are just providing a service, they must – we have good understanding that they don't own anything that the PIC has provided them with to conduct their business.

20 **MS GILL MARCUS:** No, I appreciate that. I'm raising it because if this is a board approved investigation, as you've indicated, this matter should have come before the board as part of its approval that this is the PIC's exercising its agreed rights and that there's no uncertainty about any staff member that you have that right. Was that tabled at the board about the right or was it simply given as if it is a board authority to do it?

DR DANIEL MATJILA: That was a board authority.

MS GILL MARCUS: A board authority.

DR DANIEL MATJILA: To say do whatever you can to deal with this matter.

MS GILL MARCUS: Okay.

DR DANIEL MATJILA: I think that was how it was captured in the minutes of the board.

MS GILL MARCUS: Then just one other question. Would be, in terms of the whistle blower reports Mr Magula said you'd asked for all reports to
10 be sent to you irrespective – including the ones that involved yourself, that internal audit should provide all of those reports to you, is that correct?

DR DANIEL MATJILA: I've asked for all the reports and the reason why I've asked for all the reports is because I was concerned that there are certain matters that are not brought to my attention and some of the issues were raised in this Commission, you know, which were not brought into my attention and it was just to satisfy myself that all matters have been reported or all matters that have been reported by the whistle blower are being attended to.

20 **MS GILL MARCUS:** Thank you.

MR EMMANUEL LEDIGA: Just in terms of PIC computers and property, were people allowed to put personnel staff, you know, on the computers and all that?

DR DANIEL MATJILA: There is policy that says that you can't but it's human nature that they will put one or two things on – their personal

things on the computer but policy says you can't.

MR EMMANUEL LEDIGA: Says you can't, ja. And they will have Gmail and all that stuff on the computer.

DR DANIEL MATJILA: They will have Gmail but – and, I mean, there is a security around Gmail actually on PIC computers that you cannot even access it. You can't access Gmail from outside PIC environment.

MR EMMANUEL LEDIGA: Okay, so all the stuff was supposed to be corporate stuff.

DR DANIEL MATJILA: Corporate stuff, ja.

10 **MR EMMANUEL LEDIGA:** Okay, alright.

CHAIRPERSON: Of course even if it's all corporate stuff, I mean, an employee will say they're checking upon me if I'm doing my work, they're spying on me. Anyway, we can leave it there. If there's nothing else we can continue with the next lot.

ADV ALEXANDER ROELOFSE: Mr Commissioner, I do have one or two questions, the first is related to the appointment of personnel. I've been studying the memorandum of incorporation, the only signed one that we have, DD77 and in paragraph 7.1.12 thereof it provides that the treat...[intervenies]

20 **CHAIRPERSON:** What is the date of that one, is it one that was signed by Minister Gordhan at the time?

ADV ALEXANDER ROELOFSE: That's right, yes.

CHAIRPERSON: 2017 one.

ADV ALEXANDER ROELOFSE: That's right, so paragraph 7.1.12 provides that:

“The Chief Executive Officer shall in consultation with the board appoint the other executives in accordance with applicable labour legislation.”

And paragraph 7.1.10 says that:

“The Chief Executive Officer shall make recommendations to the board with regard to the appointment of the executives of the company.”

Insofar as that assists the Commission as regards to the question of whether the board can hire and fire certain individuals.

10 **CHAIRPERSON:** I think it’s the clause above the one that you were reading that says – who appoints the CEO and CFO?

ADV ALEXANDER ROELOFSE: I don’t think that this one has the CEO because that was amended.

CHAIRPERSON: Ja, that one won’t have the CEO. So who appoints the CFO, the board?

ADV ALEXANDER ROELOFSE: If you’ll just give me a moment?

CHAIRPERSON: I think in the old one it was 7.something.11. I think 7 to 11 or something.

ADV ALEXANDER ROELOFSE: “The board shall...”

20 It’s 7.1.4.

“The board shall conduct the recruitment and selection process of the Chief Executive Officer in accordance with the guidelines issued by the Minister and in addition to being employed by the company as its Chief Executive Officer, the Chief Executive Officer shall be an *ex officio* executive director of the board

referred to in clause 7.1.12.”

And 7.1.5, below that says:

“The Chief Executive Officer shall be responsible for the day-to-day functions of the company and shall be obliged to comply with any instructions issued by the board and any directives issued by the Minister to the board provided that the board remains accountable for the purposes of the PFMA.”

CHAIRPERSON: Would I be correct to say where someone has recommended the appointment of someone – is recommended to the board, the board is not obliged to accept that recommendation? How do you know it, Dr Matjila?

DR DANIEL MATJILA: Yes, I understand. Ja, I understand it to be that way.

ADV ALEXANDER ROELOFSE: Yes, 7.1.12 makes it clear that:

“The executive officer shall in consultation with the board appoint the other executives.”

Then ...[intervenes]

MS GILL MARCUS: Sorry, I just want to try and understand that. If you appoint in consultation with the board as the executive officer, if you are removing somebody who is below the CEO or the CFO the board would not then be able to act unilaterally.

ADV ALEXANDER ROELOFSE: It shouldn't.

MS GILL MARCUS: It would not be able to act – it should be then, if it has a recommendation it's got to have a recommendation to the management team, the CEO, the CFO is the two executives to say we

expect you to deal with this, not to go and fire themselves.

ADV ALEXANDER ROELOFSE: I would, that's ...[intervenes]

MS GILL MARCUS: That would be my reading of what you're saying.

ADV ALEXANDER ROELOFSE: Yes.

DR DANIEL MATJILA: Understanding, h'm.

MS GILL MARCUS: Correct?

ADV ALEXANDER ROELOFSE: Absolutely.

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

MS GILL MARCUS: Thank you.

10 **ADV ALEXANDER ROELOFSE**: So that was the only issue that I wish to draw to the Commissioner's attention.

CHAIRPERSON: Would it be convenient to take the tea break?

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

CHAIRPERSON: We'll adjourn until quarter past eleven.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Dr Matjila, you are still under oath.

DR DANIEL MATJILA: Yes, Commissioner.

DANIEL MATJILA: (s.u.o.)

20 **ADV ALEXANDER ROELOFSE**: Thank you, Commissioner. We are on Term of Reference 1.12. Where there any senior executive of the PIC victimised? Any PIC employees? And that is paragraph 595 on page 201.

DR DANIEL MATJILA: Thank you, Commissioner.

"Mr Paul Magula falls into this Term of Reference and his claim victimisation from, amongst others, me. He represented the PIC on the

Board of VBS and failed to perform his fiduciary duties to VBS and by so doing, failed to protect the investment in VBS.

Mr Magula was obedient, respectful and a hard working employee. When an opportunity arose, I promoted him to the position of Executive Head of Risk.

Some non-executive directors had reservation about this, but I was willing to take a gamble. He was very cooperative as we worked through his development. I gave him full support and mentored him to ensure that he succeeds, knowing that if he fails, it will be a bad reflection on me.

- 10 We met regularly to discuss risk matters. He was developing fairly well albeit a bit slow. The behaviour of Mr Magula after VBS extended a loan to former President, Jacob Zuma was a very arrogant one.

In the words used in the fifth parliament of RSA, they would say [speaking vernacular].

He changed very quickly. He started to undermine my authority and I had to force him to organise a board strategy workshop that the PIC Board has asked for, for months.

- 20 He became derelict in his duties by not ensuring risk statement in the PIC corporate plan met appropriate standards. He simply abandoned his duties, leaving critical work to junior staff to handle.

In paragraph 7 of Candace Abrahams witness statement to this Commission, she confirms that she had several additional responsibilities placed on her by Mr Magula.

In my opinion, he took advantage of her excellent work ethic to overload her with work. Work that he should have been performing himself.

He also sat on the board of Magae Makhaya, where there was gross mal-administration of funds. This was a situation similar to that of VBS, but instead of alerting the PIC Board, as is normally directed to this mal-administration, he kept quiet with disastrous consequences for VBS.

I had to come back from holiday for a meeting with the board of Magae Makhaya to get an explanation on the finances of the company where after a comprehensive business plan was required to be provided by it, as well as a reconciliation of management fees paid to date.

Neither the business plan nor the reconciliation were ever provided and
10 instead the company took the PIC to court, claiming payment of management fees alleging due to it, where its claim was dismissed with costs.

The straw that broke the camel's back was the changing by Mr Magula of a risk report on the NEF to make it possible for the transaction to go through. I have dealt with incident earlier.

His relationship with Mr Mulaudzi was a serious concern for me. The media has revealed that he has benefited from this relationship from Mr Mulaudzi.

His relationship with some journalists involved in weekly exposé in AAN7.
20 It caused me grave concern. This was compounded by the leaking of the transaction that he had worked on, including the risk report on Steinhoff.

I learnt from a prominent politician that Mr Magula was tipped to take over from me once I get fired from the PIC. This, I believe, was in return for facilitating approval for a housing loan for the former state president.

This clearly explains his behaviour at the university training in mid-June

2017, where he was behaving like the CEO of the PIC as per verbal reports from other executives who attended this training with him.

The following...[intervenes]...

Can I proceed, Commissioner?

CHAIRPERSON: [No audible reply]

DR DANIEL MATJILA: Okay, thank you.

MS GILL MARCUS: [Indistinct]

CHAIRPERSON: Why do we not carry on until 616?

DR DANIEL MATJILA: Okay. Thank you, Commissioner.

10 “The following claim victimisation or being side-lined, Ms Nomzamo Petje, Ms Petro Dekker, Mr Luyanda Ntuane and Ms Pamela Phala, Mr Sandile Sibiya.

Mr Chris Pholwane has dealt with these persons extensively. I must point out that Ms Dekker was an extremely dedicated workaholic. The changes in the organisational structure seems to have not gone well with her. Reporting to the CFO might have had a negative impact on her performance. It was sad to lose her.

I hold Mr Ntuane in high regard. When he reported to me, our relationship was a healthy one. We dealt with any of our differences
20 professionally. Again, it is clear that this relationship with the CFO post restructuring was not a good one. Mr Ntuane left because of a disciplinary issue.

Ms Pamela Phala has the right qualifications and she is strong on corporate legal matters. She has performed her function as a corporate lawyer very well. I strongly believe that I have acted responsibly by

assigning her responsibilities that are aligned with her strength. Rather than assign her duties in the investment legal environment, where I do not believe her strengths lie.

She has misunderstood my remark when I said that the PIC should be driving enterprise development, by giving senior managers a platform to start their own business with the support of the PIC.

I made an example that a Macheka Ink could be established on the back of PIC support. I regret and apologise to her for this misunderstanding. Perhaps I should have used something like Manaka Ink instead.

10 In the case of Ms Petje, Mr Chris Pholwane has given a comprehensive account of circumstances surrounding deployment to another position.

Just before I was removed from my position, I was in the process of addressing her matter.

The following also claimed side lining or underutilisation. Mr Tshifhango Ndadza, Mr Tatenda Makuti, Ms Lindiwe Dlamini and Candace Abrahams.

Mr Ndadza reported to Mr Magula. I had very little interaction with him. Mainly in Portfolio Management Committee meetings when he presented risk reports.

My understanding is that he was appointed as Market Risk Manager but

20 Mr Magula used him as a Credit Risk Manager without approval from me.

This was done to ensure that Mr Ndadza enjoy the benefits of travel and packs that are associated with this responsibility.

Mr Pholwane dealt with the issue of Mr Sibiya adequately, I think. I have no idea on which basis he made a remark that: Dr Dan does not lead. He rules.

Perhaps he understood my management style which was based on my passion for the PIC and my desire to lead it to the state I thought it deserved.

As ruling, but he would be mistaken if he did. The undeniable fact is that the PIC has been extremely successful under my stewardship. However so, one chooses to describe my style of leadership.

I did what it took to achieve the results and obviously, those who did not share the PIC vision and values, would have found my approach authoritarian.

- 10 Mr Ndadza claim that the PIC has no financial moral for Steinhoff International. It is far from the truth. The Listed Investment Team has a deep-dive model for the most of the top ten hundred stocks listed on the JSE.

Mr Ndadza has told the Commission that he is the Deputy General Secretary of the new PIC Union. This to me was like sheep electing a wolf to lead their liberation struggle from the bondage of the crawl.

Following the dismissal of Mr Magula, I tried to persuade Mr Ndadza to move on with his life and stop fighting for his boss and to focus on his work and build a career at the PIC because he does have the potential...”

- 20 **CHAIRPERSON:** His boss, of course, was Mr Magula?

DR DANIEL MATJILA: That is correct.

“It seems that Mr Makuti and Ms Dlamini have the talent after a stellar performance they gave during their testimony at this Commission and I am sure, they will be given an opportunity to contribute more to the PIC.

Before I was removed from my position, I had recommended to the board

that Ms Abrahams be appointed to the position of Executive Risk.

All processes were completed. I was surprised to hear in her testimony to this Commission that she was not given the job...”

ADV JANNIE LUBBE SC: Can I proceed, Mr Commissioner?

CHAIRPERSON: [No audible reply]

ADV JANNIE LUBBE SC: I have a couple of questions on this victimisation topic, Dr Matjila. It is correct as stated that a couple of employees came to this Commission. And I must put on record and I have done so before. It was after many requests from this Commission and
10 from the Legal Team, because they expressed their fear of victimisation if they come to this Commission.

It has also been presented to this Commission by the new trade union that was established, which has now more than sixty percent representation of staff. Of this toxic environment at the PIC of fear and victimisation which came also out in the testimony of Mr Jack and later in the audit that was performed in 2017. Where people, the staff, were reluctant to come forward, even on a secure electronic version complying with the request by the service provider that they will be identified and victimised.

20 That is an introductory remark. Let us just talk about two executives of this institution. And that is Ms Dekker and Mr Ntuane. And you confirm that you had excellent relationships with them in the working environment. The problem started when they had to report the CFO. Is that correct?

DR DANIEL MATJILA: That seems to be the case, Commissioner.

ADV JANNIE LUBBE SC: And that was also the case of Ms Menye, who complaint to you about reporting to the CFO.

DR DANIEL MATJILA: Yes, Commissioner.

ADV JANNIE LUBBE SC: Were you aware in this PIC environment that the main role player accused of victimisation was in fact the CFO?

DR DANIEL MATJILA: Commissioner, that is true. Those... That was raised with me.

ADV JANNIE LUBBE SC: And you testified, and I must say, in a very diplomatic fashion, that you realised that and you coached her. You
10 started coaching her. Is that correct?

DR DANIEL MATJILA: That is correct. I made an attempt to coach her.

ADV JANNIE LUBBE SC: Now, just to deal with Ms Dekker. She has testified before this Commission and as you stated, it was sad for you to lose her. She was a workaholic. And after your testimony about her, I consulted her again and she told me that it is absolutely correct that after she filed a notice to resign, she had a discussion with her family and was persuaded to withdraw that letter of resignation.

My instructions and information, Dr Matjila, is that it was a simple administrative matter to withdraw it and carry on, but the person
20 who stopped it was the CFO. She was not prepared to take her back. Is that correct?

DR DANIEL MATJILA: Yes, Commissioner.

ADV JANNIE LUBBE SC: Did you allow Ms Menye, after her reporting problems to the CFO, to report to you?

DR DANIEL MATJILA: Yes, I did, Commissioner.

ADV JANNIE LUBBE SC: Did other staff, apart from these that - and you do not have to identify them by name – mentioned - and you testified before the Commission. Did they come to you and complain about the attitude of the CFO?

DR DANIEL MATJILA: They have, Commissioner.

ADV JANNIE LUBBE SC: I have a report by the executive members who told me - and they were not prepared to come and say that – who told me that she would organise an executive meeting, a meeting of the Executive Meeting, and she will let them wait for one to two hours like children
10 before she would pitch up. Do you know about that?

DR DANIEL MATJILA: No, I do not know about that, Commissioner.

ADV JANNIE LUBBE SC: Thank you. I have no further question on this topic, Mr Commissioner.

MR EMMANUEL LEDIGA: Dr Matjila, the first question is just 602. If we could go to that paragraph 602? It is just for you to add some colour to this one, you know. It is not too critical. The last sentence. You know, that Mr Magula was been into act like a CEO and you say there were some reports. What was he behaving like? What did they say he was behaving like? Roughly. Just briefly.

20 **DR DANIEL MATJILA:** Look, the description that they gave is that of a person leading the delegation. In other words. Almost like leading the delegation and performing, you know, the kind of functions that would normally be performed by a leader in an organisation. You know, in this group. Ja, that is basically the description that was given to me.

MR EMMANUEL LEDIGA: And was there supposed to be a leader there

because you were not there?

DR DANIEL MATJILA: No.

MR EMMANUEL LEDIGA: Was there supposed to be someone to lead the delegation and say: We are going to dinner this time. Arrive on time. And all those things.

DR DANIEL MATJILA: Those processes were handled by the HR Team. The logistics. I mean, the employees were there for training. You know. So, logistics and how things were done, were led by the HR Team. Yes.

MR EMMANUEL LEDIGA: All right. And then let us go to 613. Just also
10 to add some colour there. When Mr Ndadza was here at the Commission. I mean, we – I felt that he was very competent and he was well-spoken. He seem to know his work and all that. And I do not know whether there is a link, but you are sort of implying that he is like a sheep leading, you know, like sheep, like letting a wolf to lead them. So, just expand a bit there, please.

DR DANIEL MATJILA: Look, I deal with it maybe not so in, you know, more accurate terms here. The relationship with him and Mr Magula worried me, because you know it became clear to me that he really worships Mr Magula and he is probably working – probably on the base of
20 the lack of knowledge around what Magula is up to and therefore almost fighting for Magula, unaware or maybe aware. I do not know. Of what this Magula person has been up to. You know. And so, in that way, being a leader of an important grouping like this, maybe problematic if he is going to try and advance the aims of Mr Magula. You know. Which would be extremely detrimental to the PIC.

So, it is in that context that his relationship with Mr Magula and the way he almost, you know, respect Mr Magula whilst Mr Magula doing all these things, I saw it problematic. That he is occupying a very strong position. That is why I called him to my office at some point.

Just to say: Move on. I mean, do not be a fighter for Mr Magula because you have a better and brighter future. You must focus on your future. You know. But if his attitude is to defend Mr Magula and yet lead such an important or hold such an important position in the union, will be problematic for all PIC staff.

10 **MR EMMANUEL LEDIGA:** 611. Let us go there. Last sentence. Just broadly, what is your management style or leadership style? How would you describe that? I know this is like business school speak, but you know, how would you describe your leadership style?

DR DANIEL MATJILA: I believe in giving people space to do their work. You know. As long as they understand their responsibility. Whether it is an executive or somebody that assist with the kitchen or whatever. They must know what their role and responsibility is in the organisation and understanding of what the organisation's vision is. Where is it getting to? You know. And their role there. And be given space to perform those
20 functions. To perform. That is how I do it. That is my leadership style.

And I am sure – I mean, if the other 320 employees that I believe I have led quite well, will attest to this. You know. Because we are dealing here with a small number that have issues that either went into disciplinary hearing or whatever. That appeared before this Commission. The real people that have appreciated and have worked with me in putting

the PIC where it is, are left.

They are not in this Commission. They have not testified to this Commission. So my leadership style has been that of giving people space to perform their duties as they were supposed to in their little corners. Executives, the same story. You know.

The issue of the CFO. I was probably too lenient and I was looking at her as an executive. Not just an ordinary employee. Performing a certain role alongside me. The second in command, in other words. That I would give her space to perform those functions, with the
10 view, that one day they will be taking over from me and driving the PIC's vision to the next stage. You know, the visions and missions that you see here, were developed by the team.

In fact, the last one that you see in the annual report of 2018/2019, was developed around 2018 with the whole team in one room, senior management, debating what the PIC should position them, itself, in the long term. To be a global asset manager. And interaction and open environment. I believe my Exco meetings were quite relaxed. Cordial, but very constructive.

I have given my colleagues a chance to chair some of the
20 meetings. There is no one in Exco that has not chaired an Exco meeting or a sub-committee meeting. So that they get training and the feel of what it is to lead a meeting like that and building their skills to become leaders of the PIC one day. You know. So, I have always given people free room to perform in line with their responsibility and allow people to be innovative. Allow people to be creative. You know. So that the

organisation can move to the next stage.

I have not allowed people to misbehave. I mean, that is another matter. You know. We have... I mean, there is no way that you, in my view and in my experience, that a good leader is a nice leader. You cannot be nice all the time. The other day I made a joke that says: If you want to be nice to everyone, you must sell ice-cream. As they say. You know. But if...

Once you become too relaxed, then you will see some of the things that have happened at the PIC. And once you start nipping that in
10 the butt, you really create a serious problem for yourself, because some people will not like that kind of thing. They would not like that kind of intervention. They would like to be disorderly and so on. So, ja. I think I have been not autocratic at all, but firm. But firm when it is necessary.

MR EMMANUEL LEDIGA: Firm. Okay. What firm and fair or firm but fair?

DR DANIEL MATJILA: Firm but fair.

MR EMMANUEL LEDIGA: Would you say that?

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: All right. Then that follows that. You know,
20 giving the fact that you know the PIC left, right and centre, top to bottom. You are a very well-educated man and everything. When people question you or question your decisions, did you feel bad about it or angry about it? And say: You know, these people must not question me?

DR DANIEL MATJILA: People question me.

MR EMMANUEL LEDIGA: That can happen. I mean, for leadership that

have been there for a long time. They might feel that they cannot be questioned.

DR DANIEL MATJILA: I certainly get questioned. And anything that anybody in the PIC is not comfortable with and they can proof or back it with enough evidence and reason that it is something that is not in the best interest of the organisation, I would not force it down their throat or I would not even do it. You know. Whether it is a transaction or what.

I may have a different view, but I am supported by different teams. So if one team says: No, we do not like it for these reasons. And
10 two other teams says but it is fine and so on. Then it is normally not done. Because there has to be consensus. So something that comes, you know, that request an immediate decision to be taken, has to be agreed by the technical people that support us.

A recommendation that says: Yes, we can do this. Then we act on the basis of that recommendation. So, I do not remember overriding that sort of process and deciding on something on my own.

MR EMMANUEL LEDIGA: So are you saying that Mr Seanie is saying, you know, they could not question things. Are you saying he is not correct?

20 **DR DANIEL MATJILA:** I do not know, because Mr Seanie is an Assistant Portfolio manager. So, there is a Portfolio Manager on top of him. After the portfolio manager, there is a general manager and then there is an executive head of the department. So I would not know what interactions that have at that level.

MR EMMANUEL LEDIGA: At the bottom, ja.

DR DANIEL MATJILA: Because it is very rare that they will come right at the top and question matters. It is mostly in the environment of a PMC or an Investment Committee. But at that point, they would have already produced a recommendation that is coming from that unit.

MR EMMANUEL LEDIGA: All right. Then the final question is this. As a leader, you were aware that there were issues with the CFO, Ms More and the other people. I mean, these were big issues. I mean, people came to you and crying in the office and say, they do not want to report to her and all that. I mean, this was causing a lot of problems. I mean, as a top
10 leader, what did you do about it? I mean, it was causing serious, serious problems.

DR DANIEL MATJILA: Look, first. I have pleaded with the team to understand the style of Ms More. First, Ms More is a strong person. Very technical. Very firm in many ways. You know. Some people do not take kindly to that. I guess there is some element of her soft-skills that she required to fix, you know how you relate to people, how you talk to people and so on, the choice of words and those kind of things you know are very important. But really on the core technical things that are required for the organisation and to move it she had all of that, you
20 know I have no doubt that people can complain about other things, maybe her behaviour, the soft skills if I were to put it that way but very strong technically and very strong in terms of attention to detail. I think the organisation wouldn't have been where it is now if she didn't have those traits as a Chief Financial Officer looking after the monies and ensuring that it's spent and managed properly. Perhaps the

biggest challenge would have been on the soft side that's why we were attempting to coach her on the soft side. There is a, we put up a training scheme, mentorship scheme, I think each of the executive heads had a mentor so that they are able to deal with the soft skills that are required to make a person better than what they are so they've raised all of these things, Commissioner if I may, and I have attempted without trying to then take everyone to report to me because that would have been a very difficult, you know it's the easiest but it's not an optimal solution, you still have to try and get people together and
10 understand each other better you know. So I was living with hope that there would be maturity over time, you know they will be maturity over time.

MR EMMANUEL LEDIGA: Ja but that dragged on from, you know from the time of Ms Dekker then it was Ntuane and then it was Menye I mean that was like from what 2015, 2016 so the training program I mean surely it could have been done sooner?

DR DANIEL MATJILA: I think we need to explain some of this and I can understand there are soft issues but Ms Dekker on the hand I think she was feeling that her position is being watered down, you know I
20 think that's one of her biggest concerns was that this seems as if this is being watered down and it was indeed the responsibility was slightly changed but that didn't mean that the grade and all other issues had changed, they remained the same in my view. And of course as you rightly say the relationship between her and Ms More was not a great one you know but well I was hoping that they will find each other at

some point. Mr Ntuane I know there were problems but he left because of disciplinary ... (intervention)

MR EMMANUEL LEDIGA: Different issues.

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: Ms Menye there were problems.

DR DANIEL MATJILA: Ms Menye also big problem.

MR EMMANUEL LEDIGA: And they dragged on for three four years I mean ... (intervention)

DR DANIEL MATJILA: Sorry with Mister?

10 **MR EMMANUEL LEDIGA:** They dragged on for about three years these problems?

DR DANIEL MATJILA: With Ms Menye?

MR EMMANUEL LEDIGA: No I'm just saying across the board from Dekker to Ntuane to Menye.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: But as a leader I mean surely something could have been done maybe sooner, I don't know.

DR DANIEL MATJILA: Well perhaps you are right I mean I can't deny that but I was hoping that maturity, time will be you know the biggest
20 factor in getting people to understand, you must understand that Ms More is fairly young you know and some of the people that you're talking about are fairly senior and you know so that part also it's a problem but I was living with hope that she will be able to mature in that space. And as I said I mean I wouldn't want to believe that she's done a bad job in the space, in her space ... (intervention)

MR EMMANUEL LEDIGA: Technically she's very good ... (intervention)

DR DANIEL MATJILA: Technically she's done exceptionally well and the organisation is where it is because she performed certain things ... (intervention)

MR EMMANUEL LEDIGA: Very well.

DR DANIEL MATJILA: Tasks diligently you know. But I guess there's always a problem nobody's perfect but you know you have those challenges.

MR EMMANUEL LEDIGA: Yes she was here yes, we know about
10 technical abilities and all that. Then the final thing is on the top three, you know they normally say the top three at the PIC so it was you, Ms More and Mr Chris Pholwane you know just in terms of Mr Pholwane I mean he was here and they said he's like the hangman you know there were jokes that he's the person who sort of hangs the condemned people. Do you think there's something wrong with which he did, is there something that as a leader you could have done better for him if there's something that Mr Pholwane did?

DR DANIEL MATJILA: I think it's unfortunate that the James Nogu
... (indistinct) if I were to put it that way you know has resulted in a lot
20 of disciplinary hearings which obviously you know, and he led those processes as a HR manager and we relied on him. I relied on him for advice on HR matters mainly and the HR matters that involved very senior people where I had to be involved. There are certain matters that were within his delegated authority to deal with you know. So most of the matters that came into my attention that were not dealt with

properly and those who had courage to approach me to say but we have these issues we've attempted to resolve them. We've called Mr Pholwane, explained to him, tried to understand what the issues are and provided a solution and most of the time we came up with a solution that was satisfactory to an employee you know so most of the matters that were brought to my attention I've dealt with instructing Mr Pholwane sometimes acting on his advice to deal with matters as per policy of the PIC. So that has happened. Now there are matters that were raised in this Commission that I was not aware of and some of the

10 matters I heard about them that's what prompted me to ask the internal auditor to provide me with the whistleblowing reports so I can see indeed whether these thing were reported or not and begin to ask why they were not attended to. We'll probably discuss that report here because I couldn't find lots of staff issues really of relevance that were placed before this Commission. The issue Sibiya of course was dealt with properly in my view, how he, I mean he handled it very badly I would say in my view, it was, I see it as inappropriate it the way he handled it but we can discuss that.

MR EMMANUEL LEDIGA: Just remind us there on Sibiya?

20 **DR DANIEL MATJILA:** That he opened a case against the PIC on the payment of ... (intervention)

MR EMMANUEL LEDIGA: Of a bonus yes.

DR DANIEL MATJILA: Of a bonus that the letter was altered with tippex and those kind of allegations. Those allegations were dealt with by internal audit and they could prove that the letter from the Minister

was not altered at all, it was authentic and we acted according to it. Out of that there was a surplus of R32 million that had to be obviously taken back, withdrawn because we needed to comply with the Minister's directive that the pool must be X amount, a certain percentage of cost to company and that's it.

MR EMMANUEL LEDIGA: But in summary then what are you saying about him in terms of all the issues which have been said at the Commission?

DR DANIEL MATJILA: Look the other allegations obviously I haven't
10 seen the full report on the investigation around them and what the report has revealed whether it was negative or you know somebody was found guilty for that, you know I've not seen that report at all.

MR EMMANUEL LEDIGA: Then finally then on the climate survey, the climate survey do you know about what I think it was Mr Motimele said that they combined scores, there were scores combined about you know average scores being combined with something that sort of presented a better picture of the climate scores?

DR DANIEL MATJILA: That was not brought to my attention, I only
20 heard it when he was appearing before this Commission that there was that. I was always concerned about participation, it was very low and I had meetings with staff to understand why participation is low. They raised the issue of victimisation if they are found or the process they don't have confidence that it's secure enough, it protects their anonymity and so on and we even went to an extent of establishing a you know written responses, you know a questionnaire that they could

drop in some box somewhere just to try and get them to participate in the process. So the issues that he raised here he had never raised them with me while I was at the PIC.

MR EMMANUEL LEDIGA: And that climate survey I mean it was quite a difficult one it was not one which was looking good, I mean did it worry you?

DR DANIEL MATJILA: Yes it worried me quite a lot in terms of the output that we don't seem to be moving in terms of staff satisfaction you know we're trying to create an environment that is conducive for people to do their work but they live in fear for some reason. You know so I was extremely concerned about that.

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

MS GILL MARCUS: Thanks. Dr Matjila following from my colleague's question in paragraph 596 you describe Mr Magula as obedient and cooperative, is obedient something that you require in your staff?

DR DANIEL MATJILA: Not necessarily, they have to be honest.

MS GILL MARCUS: Honest yes obedient is different. You've used this description as obedient which means that he listened to you. It's very different to use a word obedient to participatory explore all the things you've described as your management style and you look at him as cooperative, obedient and then he becomes arrogant and did not, in essence you're looking again at the role of Mr Ntuane in relation to supporting him but there was a support from you to Mr Magula, he became head of risk, he became a person representing on boards, I think it would be perhaps natural for people in his department to see

him as a role model and to work with him given that so there's a bit of a contradiction here for me in the way you look at Mr Ntuane and what you've said about him as the wolf leading the sheep, clearly a very dissatisfied staff that you actually have a union formed in an organisation like the PIC with a 60% membership and growing and then a description of Mr Magula as obedient until obviously the issues came to the fore around the VBS matter as well as Magae Makhaya. Do you see it as a process by which Mr Magula developed in that way and or a misreading on your part as to how you understood Mr Magula at the

10 outset and what happened how would you see that, because I'm just interested in the word obedient?

DR DANIEL MATJILA: Commissioner you are right in the description this is you know an observation over time from where he came from to where he developed in to and the big changes that he underwent and became something else you know that I never thought he would be you know so he started as a fairly senior person getting into a role of acting. In fact we interacted with him even when he was an analyst in the Isibaya because they would present portfolio management, I mean the transaction reports on risk and so on and so forth that is the nature

20 of the interaction with him at a lower level and then later on he moved into risk and then became acting head of risk and we worked quite closely together because I was seeing someone with potential that can lead the risk department, the technical expertise and understanding and those kind of things. So that obedience is coming from the level, the young man that he was at that point you know very keen to learn, very

keen to take instructions at that point as part of the learnings versus now giving a responsibility to act in a position of that nature. Now there he needed a little bit of handholding even though as acting an acting position gives you authority to perform as if you are the permanent position so but he needed to still take you know advice from me so that he can develop into something better.

MS GILL MARCUS: In that circumstance Mr Magula told the Commission that his department was under resourced, under staffed, that he had no powers to appoint people because that resided with you
10 as the CEO and that the PIC operated without a head of regulatory compliance, without a head of credit risk, both critical for transactional and risk assessments especially in the unlisted space. Ms Abrahams in her testimony says that there was no reason not to have these appointments because there was a question that all vacant positions were budgeted for, so it was not a budget issue it was the authorisation and approvals which resulted in far too much work on some people and she said all positions are budgeted for, the budget assumes full capacity therefore funding for vacant positions is not the issue which really was the need for approval from the CEO to proceed and this was
20 not forthcoming. She felt Mr Magula was blocked from appointing additional team members while other departments were able to employ additional resources and given the questions that were raised about the nature of leadership she said she was aware of an atmosphere of tension and a sense that the CEO was under siege, if Magula received a call from the CEO it resulted in seeing him panicked. This instilled

fear in me, she's talking about herself at that point, that when you were called from the 7th floor you should be very afraid.

DR DANIEL MATJILA: Ja.

MS GILL MARCUS: That is a person who you were recommending to be head of risk and that is her assessment of the environment in which she was working in.

DR DANIEL MATJILA: Ja I'm not sure if it's her assessment I mean the truth versus reality.

MS GILL MARCUS: Well it's not about whether truth versus reality
10 because it depends whose truth and whose reality, this is what she told the Commission.

DR DANIEL MATJILA: Yes absolutely and Commissioner I'm saying Mr Magula as an executive head he had full authority to appoint staff through internal processes, we've done revision of the organisation at some point and prioritise certain positions and a lot of positions in risk were prioritised to be filled but for some reason Mr Magula couldn't fill those positions you know so ... (intervention)

MS GILL MARCUS: Did you, you said earlier that you were
20 handholding him and looking at how to ensure that he took the decisions that were required, did you look at why there were that level of vacancies and why these appointments were not being filled, this is coming from both Ms Abrahams and Mr Magula so taking account of Mr Magula's, what we know about him, it's not just from him it's also from Ms Abrahams, what was your role in saying there's too many vacancies in this department?

DR DANIEL MATJILA: Commissioner let me close the gap here, you know Mr Magula became the permanent acting head of, I mean the permanent head of risk, the executive head of risk with full responsibility. At that time he didn't need much of my guidance because we knew that now he was able to run on his own and make decisions and you know recommend to me as opposed to me instructing him to do certain things, to perform certain things. So that changed, I mean I handed over full authority to him to run the department. Positions were there budgeted for, he was just supposed to fill them in,
10 he didn't do so.

MS GILL MARCUS: What steps did you take with him given your close working and the critical role of risk as we've seen throughout our testimonies what steps, did you say these are vacancies why is not being filled, what is happening here because it's part of your assessment of people who report to you, are they fulfilling their roles and responsibilities as per agreed KPI's and everything else?

DR DANIEL MATJILA: We've asked several times why they are not filling the positions and obviously from 2017 there was a lot of confusion within the PIC and that also affected the working relationship
20 with Mr Magula, it was becoming very strained at that point that there are certain deliverables that he's not able to perform you know his conduct, his performance were all questionable to a point where we eventually instituted disciplinary process because in my view he at some stage was failing to run the department as it's supposed to be done.

MS GILL MARCUS: Did you remove from any of the boards he was sitting on because there was not the attention to his department?

DR DANIEL MATJILA: Look the boards we would have done so at some point but we didn't do so, I mean once you get removed from your position or get suspended you're not longer a director of the company. The policy says that if you are removed from the PIC automatically you cease to be a director of the company.

MS GILL MARCUS: Ja but you didn't start off there, you started off with a concern that the risk department was not fulfilling its role as it should and therefore in discussion with the head of risk, and executive head of risk you say why is that not happening are you sitting on board A, B, C, D, E, let's take you off those boards so you concentrate on your department to get it to the level with the people and the attention and the time that's required and what measures did you take? And then the second question I wanted to ask in relation to that is did you in terms of your own reporting to the Board do a report on what your concerns were about risk with Mr Magula not performing the way he did and then secondly did you take to the Board your concerns about the way in which senior personnel were having difficulty working with the CFO and these were the measures you had taken so your expand of control considerably increased because people were reporting to you as distinct from reporting to the CFO, would that have affected her bonus pool, any questions to say you either address these matters or you continue to get your bonus as if you're performing extremely well. Did any of that come to the Board from you?

DR DANIEL MATJILA: I remember I did raise some of the matters with the Board on the performance of some Exco members but ... (intervention)

MS GILL MARCUS: Including the CFO?

DR DANIEL MATJILA: Not the CFO, I don't think we discussed the CFO ... (intervention)

MS GILL MARCUS: So therefore the fact that you had taken over people into reporting to you as a way of dealing with those staff who had difficulty working with her would not have affected her performance
10 evaluation?

DR DANIEL MATJILA: It would have I mean ... (intervention)

MS GILL MARCUS: And did it?

DR DANIEL MATJILA: This happened very shortly, you know it was, it must have been around, I can't remember when in 2018 or so, it's a very new thing, it's not like years that it's been like this you know and it was in the middle of the crisis within the PIC.

MS GILL MARCUS: But didn't she then become Acting CEO, at what point in time was she Acting CEO?

DR DANIEL MATJILA: Ms More?

20 **MS GILL MARCUS:** Yes, she was earlier Acting CEO and then Acting CEO again.

DR DANIEL MATJILA: She's been Acting CEO in my absence several times ... (intervention)

MS GILL MARCUS: Ja but the question I'm raising is that if you had raised with the Board concerns about her management of people and

that this was creating crisis's with staff refusing or having difficulty working with her and you taking it over if the Board was aware of that would they have still appointed her as an Acting CEO in that circumstance?

DR DANIEL MATJILA: I don't know.

MS GILL MARCUS: They didn't have the information from you?

DR DANIEL MATJILA: I don't know.

MS GILL MARCUS: But you didn't give them the information?

DR DANIEL MATJILA: I haven't discussed it with them to that extent.

10 **MS GILL MARCUS:** Ja you didn't discuss that with the Board okay. I think I just have one other question ... (intervention)

DR DANIEL MATJILA: I think it's also very important to understand that we are dealing with an executive.

MS GILL MARCUS: Absolutely.

DR DANIEL MATJILA: We are dealing with a Board member.

MS GILL MARCUS: Absolutely but you're the CEO and in that question there's a CEO a CFO the only two executive members on that Board who are there in terms of the mandates and the MOI's and the, well not MOI's because there should have been others, but it is an incumbent
20 for a Board to be fully informed about taking decisions around senior personnel.

DR DANIEL MATJILA: I'll accept that Commissioner.

MS GILL MARCUS: I have just one other question, in 613 you talk about sheep electing a wolf, what is your view of the establishment of the union in the PIC?

DR DANIEL MATJILA: Commissioner my view is that it's fine I don't think there's a problem if staff are going to organise themselves in the manner that they did in response to the kind of treatment that they have gone through in order to address their problems because it was clear that they didn't have a mechanism to fix their problems or they have confidence in the ability of management to deal with their problems you know. Effectively now where this thing is coming from in my understanding, the biggest driver of this has been payment of bonuses that's where it's coming from. I can understand the other
10 matters, other complaints around you know victimisation and many others but the big issue that started this was the payment of bonuses that was becoming problematic for them and myself in particular because it became a problem in the sense that they didn't know whether bonuses will be paid at some point and when those bonuses are going to be paid year in and year out it became a serious problem of uncertainty around bonuses. They would have carried on their work, delivered and get told later on that your bonuses have been cut elsewhere and the payment of that takes forever to process which was something that was completely outside the control of the Board of the
20 PIC and myself in particular and so staff felt that perhaps if they form a union they may have a much stronger mouthpiece to deal with this matter on their behalf that's where's the main driver of the union.

MS GILL MARCUS: In the structure of the PIC and in the union is there a distinction between at what level people become management? I'm not talking about your executives, I'm talking about when are you

management and when are you staff as a distinction, do you have that distinction between staff and management or a level above which you're regarded as management?

DR DANIEL MATJILA: Management we've used it loosely as everyone that participate at Exco level. In other words it will be Exco membership and certain invitees, permanent invitees as management, that's how we've defined it.

MS GILL MARCUS: Just going back to 600 I know your paragraph 600 which we've dealt with before, the allegation is is that Mr Magula
10 helped Mr Mulaudzi prepare the papers for the Tosaco submission. Do you have any further information on that, are you aware of that at all and that the payment that he received subsequent was because of that work and assistance, obviously these are allegations one doesn't have, I don't have information beyond hearing that this is what it was about but I'm asking whether you have any additional information on that or are aware of any of those allegations?

DR DANIEL MATJILA: No I'm not aware, I only became aware through the Commission now when this matter was raised here.

MS GILL MARCUS: Again just as a final question perhaps, paragraph
20 611 I think that, in the middle of the paragraph, the undeniable fact is that the PIC has been extremely successful under my stewardship however one chooses to describe my style of leadership. I think that there's perhaps a distinction there, a question that in terms of returns to the GEPF there has been overall movement, definitely bull markets that have influenced that, significant areas of room for improvement in

the unlisted space and so on. But can you say that quite fairly that it's an undeniable fact we are here in a Commission where you say that a lot of the people who've raised issues are not the sort of bulk of the staff but almost everybody who's raised issues at the Commission are very senior staff and have been there for some time or in different degrees. Is it correct that it is extremely successful under your leadership that's resulted in a Commission of this nature which is obviously, and I'm not attributing it simply to your leadership, there's a whole lot of issues here that we're trying to uncover but I'm just
10 questioning how you see that so emphatically given that you're sitting in this Commission?

DR DANIEL MATJILA: The main function of the PIC is to deliver asset management services to its clients, to manage their portfolios and generate returns. In a big portfolio of about 2 trillion when you deliver outperformance for a client of 252 basis points on a five year rolling number you are the best, you are better than the median of Alexander Forbes manager large watch, manager watch, then you are the best. You deliver on social impact, you deliver jobs, you deliver transformation, you become a training ground for graduates.

20 **MS GILL MARCUS:** We don't need to go into all of those things which you've explained. What I've also asked you quite distinctly is the question that the GEPF has come here and said that they've had experiences that they were unhappy with, Mr Sithole was here. So all I'm asking is that if you look at this as extremely successful, you're dealing with an element. Are there no questions in your mind

about why there's even a Commission?

DR DANIEL MATJILA: The Commission is here dealing with almost 2% of the portfolio. And some of the things, some of the assets that are in this 2% portfolio are actually performing well. This Commission is looking at issues around transactions, impropriety, that's what this Commission ... (intervenes)

MS GILL MARCUS: Impropriety on the part of the PIC.

DR DANIEL MATJILA: Yes, that's what this Commission is about on 2% of the portfolio. 98% of the portfolio is doing exceptionally well it's
10 doing what it's supposed to do.

If you look at and even the bank it will always have challenges, none performing loans driven by certain things. The Reserve Bank the regulator will always have banks that are folding from time to time.

MS GILL MARCUS: Not always.

DR DANIEL MATJILA: Those are the challenges. Those are the challenges that you'll have in any organisation

MS GILL MARCUS: Absolutely.

DR DANIEL MATJILA: Now I'm saying extremely because 98% of the
20 portfolio do well cannot anything other than extremely good performance. And this Commission, I'm not undermining the work because it's design to improve on the workings of the PIC and we hope that out of this they will be able to shape a PIC that will continue to deliver more than 98%, if they can sustain this 98% because I know there's no way that you will get 100%. There will be all kind of

challenges as we go along.

As long as you learn from the mistakes now and fix them so that they don't occur again but there will be new ones that will require attention as you go along. So sustain the 98% then you remain the best manager ever under the sun. So what I'm comfortable with what we've delivered at the PIC, we may have this small wound that we are dealing with now and I think Savlon will deal with it.

MS GILL MARCUS: Thank you.

MR EMMANUEL LEDIGA: Ja. Just in terms of- I thought I wanted to
10 ask this later but it has come up. Just if you could gross up that 2%, I
tried to put it together too, just if you could tell us how you calculated
that 2%?

DR DANIEL MATJILA: I think for example quickly I said Steinhoff
probably around 90.5 billion.

MR EMMANUEL LEDIGA: Yip.

DR DANIEL MATJILA: TOSACO Ascendis another 3 million, gives you
like 14.

MR EMMANUEL LEDIGA: Ah-ha

DR DANIEL MATJILA: Erin 5 billion or so.

20 **MR EMMANUEL LEDIGA:** Mm-hmm

DR DANIEL MATJILA: SNS about a billion.

MR EMMANUEL LEDIGA: Mm-hmm

DR DANIEL MATJILA: What else?

MR EMMANUEL LEDIGA: You got four. Steinhoff, TOSACO, Erin,
SNS.

DR DANIEL MATJILA: The big ones.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: Ja, the big ones.

MR EMMANUEL LEDIGA: Ecobank?

DR DANIEL MATJILA: Ecobank is another 4 billion or so I think.

MR EMMANUEL LEDIGA: Mm-hmm. We are now on about if I can say 22 billion or so, somewhere there so far.

DR DANIEL MATJILA: At 22 billion divided by 2 trillion will give you probably less than 2%, 0.01% roughly ... (intervenes)

10 **MR EMMANUEL LEDIGA:** And then what about Ayo and ... (intervenes)

DR DANIEL MATJILA: You can add all of that.

MR EMMANUEL LEDIGA: Even that, ja.

DR DANIEL MATJILA: You can add them all, you can add them. You are not going to exceed probably 30 billion at best.

MR EMMANUEL LEDIGA: Okay.

DR DANIEL MATJILA: Divide by 2 trillion.

MR EMMANUEL LEDIGA: Mm-hmm. Alright, so you are saying it's around so 30 to 40 billion rands. Is that what you are saying?

DR DANIEL MATJILA: That I say that should be around there.

20 **MR EMMANUEL LEDIGA:** Somewhere there. Which is then 2% of that 2 trillion is that what you are saying?

DR DANIEL MATJILA: Ja. 20 over 2 trillion if that's the number ... (intervenes)

MR EMMANUEL LEDIGA: Because 2% ... (intervenes)

DR DANIEL MATJILA: Or 40 over 3 trillion.

MR EMMANUEL LEDIGA: Yes, 2% of 2 trillion would be 40 billion isn't it?

DR DANIEL MATJILA: Ja 40 billion.

MR EMMANUEL LEDIGA: Ja 40 billion, isn't it.

DR DANIEL MATJILA: That's correct.

MR EMMANUEL LEDIGA: So you are saying it's around there?

DR DANIEL MATJILA: Around that figure.

MR EMMANUEL LEDIGA: The 40 billion, okay.

DR DANIEL MATJILA: Ja.

10 **MR EMMANUEL LEDIGA:** Alright because I was trying to gross them up so I was not sure. Okay, I get you.

DR DANIEL MATJILA: Okay.

MS GILL MARCUS: Can I just have a- sorry. I just- I'm not sure that's the way I would look at it. I think there are 38 transactions that have been drawn to our attention. We're handling those that to our resources enable in terms of time and resource. And it's about the impropriety not simply the percentage of the issue.

So to simply say these are, you can add them up and gross them up to this amount. 40 billion is real money, it's not small money, it's not
20 rounding figures, its real money. But the issue here is actually the impropriety, that's what we are looking at. So I think it's a little bit inappropriate and I'm not asking you for response, it's a comment from my side, to say if we gross it up it only comes to 40 billion.

The issue is the money is material but it is about the impropriety which is what we're looking at. We're not saying we haven't found- we are

listening to the evidence presented at this point in time. There's no findings yet, there's no decisions yet, there's no question saying this is our view on it. We're trying to understand what that was about and again I think that just within that grossing up, it's not about reflecting listing and listed and unlisted and properties.

This is mainly in the list and the unlisted space and obviously there are very real mandate issues for the PIC and the GEPF that we are considering when we are looking at these matters. So I think that I would not agree with, I think your response is a little dismissive of the
10 issue.

DR DANIEL MATJILA: Commissioner, I'm looking at this from portfolio perspective. How an asset manager is managed is- and how an asset manager's performance is assessed.

MS GILL MARCUS: Then impropriety becomes a very significant fact irrespective of the amounts. So I don't think this should be a dialogue, I've asked you a couple of questions, you've responded. I've tried to give a perspective to say that this is about impropriety not simply amounts and that we are listening very carefully to all the evidence presented here.

20 We have no findings at this point in time. We have no views on it, we're just exploring what has come before the Commission.

DR DANIEL MATJILA: Ja, I think this was prompted by the fact that I'm saying the organisation has performed well. And that's the argument and we don't seem to find each other there but it's fine.

MR EMMANUEL LEDIGA: Can I just ask you? Perhaps can't we look

at separating the two and say in terms of portfolio performance, you could have something and say you are beating the market and all that which one can agree with roughly. Because asset management is about making wins and making losses but overall if you are performing well generally that would be fine, isn't it?

DR DANIEL MATJILA: That will be fine.

MR EMMANUEL LEDIGA: Yes, and then there's a side of improprieties which is a separate matter because there we're trying to find what were the issues within the processes and all that. Will that be correct way to
10 sort of look at it, in terms?

MS GILL MARCUS: Yes.

DR DANIEL MATJILA: Ja, I don't have a problem with that quite frankly as I've said and if this Commission work is going to help in making the PIC even more strong and sustain the 98% that I spoke about now.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: It's welcome. So that's the angle at which I'm looking at and I'm not saying these issues of impropriety should not be looked at.

20 **MR EMMANUEL LEDIGA:** Sure.

DR DANIEL MATJILA: I welcome that.

MR EMMANUEL LEDIGA: They are quite important.

DR DANIEL MATJILA: Exactly, but I don't want them to cloud the fact that the PIC has delivered on returns. The GEPF found it very hard to say that we've done well for them but the numbers speak for

themselves.

As I've said, if you are able to outperform benchmarks by more than 252 and you are far ahead of the large manager watch, then you are the best.

MR EMMANUEL LEDIGA: No, look the GEPF the Actuary, they did say the performance is generally well. So but from our point of view the processes and the- are quite important too.

DR DANIEL MATJILA: Very important.

MR EMMANUEL LEDIGA: Ja. Okay alright.

- 10 **CHAIRPERSON:** I think we should simply be reminded that we've got terms of reference that we've got to make findings on and then in the end make some recommendations to the President. What happens thereafter, that's in the hands of the President?

Anyway, there's something that I needed to ask you, 595 because I've said this repeatedly that I know nothing about investments. You say there that Mr Magula failed to perform his fiduciary duties to VBS and by so doing failed to protect the PICs investment in VBS.

- Can you just clear my mind, what was he supposed to do?
20 What was he expected to do?

DR DANIEL MATJILA: So Commissioner, sitting on the board of VBS and what we know about what happened there, the fact that the bank collapsed and the PIC has an exposure in the bank and lost all its investment in the bank.

So it's both ways that acting as a fiduciary to make sure that

the bank does what it's supposed to do. Safeguard the depositors and the business of a bank in general that is able to perform its function providing the banking services as it's supposed to be as a company as a bank.

He sits on the board to ensure that that happens but at the same time the PIC has put money in there on the basis that it has one of their own to ensure that value is created and the investment make sense. So it's both ways, failing to perform those fiduciary duties to protect the bank has resulted in PIC losing money. That is the ...

10 (intervenes)

CHAIRPERSON: It's part of that board. So one could then say- I'm talking about VBS now.

DR DANIEL MATJILA: Yes Commissioner.

CHAIRPERSON: As part of the board of VBS which means that the board the entire board in VBS failed VBS, am I right?

DR DANIEL MATJILA: That's correct, Commissioner.

ADV JANNIE LUBBE SC: Mr Commissioner, with you leave I'm a bit out of turn now but I forgot to ask Dr Matjila a question on the bonuses. It came out of the other questions and it is a document which I've
20 handed to him earlier this morning, he knows about the content and I think it's important just for him to answer it for the benefit of the employees of the PIC was very upset about these short-term long-term incentives etcetera.

CHAIRPERSON: I don't think it's out of line because Dr Matjila mentioned the bonus issue in his answers.

ADV JANNIE LUBBE SC: Yes. Dr Matjila, I raised it with you this morning that it is stated in this email to me that during the 2016/17 audit, the auditor general raised a finding relating to an STI provision of about 32 million which was raised but was never reversed after bonuses had been paid.

The finding was later cleared based on a respond that MS More provided to the auditors. The response included the following statement and I quote;

“We have a legal obligation to employees to make payment as per the
10 approved remuneration policy.

As the only formal letter that was provided by the shareholder as an instruction, is the payment of executives and senior management remuneration and not that of the entire staff.

The auditor general can provide you with a detailed response.”

Contrary to this statement Ms More requested for the provision to be reversed after the finding was cleared and this money was never paid to PIC employees.

Now a similar situation arose in 2018/19 financial year, a similar explanation was given by the financial department and it says
20 that Ms More claimed during a staff meeting that the National Treasury instruction includes everyone, all staff. However in a response to the auditor general she explicitly states that the instruction is mainly for EXCO and senior management.

And they want a response to that. Can you please assist the Commission Dr Matjila?

DR DANIEL MATJILA: I will try Commissioner.

I think in 2016/17 the Minister wrote to us basically instructing the board to limit the bonus payment to a percentage of cost to company and in addition to that that he will want to approve the long-term and short-term incentive payments to executives in particular and I think senior staff as well, senior management, those whose name appears in the annual report as part of reporting on remuneration. That's basically the nature of the letter.

Now the board of the PIC had done a calculation and approved
10 a pool to be paid that year in line with the remuneration policy of the PIC, it was a number that they approved as an allocation for short-term incentive schemes and long-term incentive schemes for the entire staff including the executives.

And then wrote to the Minister to say this is what we want to say, this is what we want to pay and so that letter was simply saying as a shareholder I want you to approve this amount which unfortunately was 32 million less than what was approved by the board. And in compliance with the Minister's directive the PIC only paid the 34% of the CTC in other words 32 million less than what was supposed to be
20 paid in terms of the remuneration policy.

And my understanding that this 32 million was then reversed back into the finances of the PIC into the balance sheet, that is my understanding of what happened.

ADV JANNIE LUBBE SC: So the view of the staff that they are entitled to this money, is it correct or incorrect?

DR DANIEL MATJILA: My understanding is that it's incorrect because the Minister has put the limit on the amount that can be paid for the entire staff. I think they need to be understanding that he puts a limit on the total amount to be paid in bonuses. And further says that any amounts that will be paid to executives and senior management, he wants to approve. So there is no way that we'll be able to pay staff until he has approved this pool. And so in compliance because if you read it at face value you think that he approves the incentive pool for senior management.

10 Now if that letter applied to senior management only, it will be a huge amount of money. I mean 34% of CTC to senior management and executive, it's a lot of money. So we understood it to mean that he will approve the pool for all employees and then the step that was not clear I think that's what agitated the staff, was that it was not clear the process I mean how we staggered this.

 Does he approve the pool first and then out of that pool, we can then do our calculation and get the board to approve payment to all staff and not to executives and senior management. That's probably what needed to be explained so that the payment of senior executives
20 and EXCO or executives is not- does not hamper the payment to the other, the rest of the staff in other words.

 If those things, if they were decoupled we wouldn't have had a problem. Unfortunately, they were coupled by the fact that the pool needed to be approved by the Minister. That's how I understood it.

ADV JANNIE LUBBE SC: Now just following on that again, and coming

back to Ms More and Mr Pholwane. And I think you correctly pointed out that one of the main driving factors for the establishment of the union was salaries and bonuses and that type of thing.

Now you have two persons in charge of the moderation committee, Ms More who we know by now has a problem with staff and Pholwane who's considered to be the hatchet man or the terminator.

Can you understand the perception of staff and their fear that they will not be treated fairly or not?

DR DANIEL MATJILA: I think I can understand that. It's probably fair
10 to say that they have a point. But I must correct one thing here that the moderation committee is actually EXCO members and I was not the member of the moderation committee so that I can deal with grievances post that.

So my understanding was that the moderation committee has always been EXCO and senior staff members who have a number of people reporting to them.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

MR EMMANUEL LEDIGA: Follow up question. Just in terms of the
20 Minister's directives and I was going to ask it at the recommendation sections but I thought it has crept up before I forget it, let me ask it here. And I've asked it before, I think I've asked it to Ms More or so.

What's your view about- I mean we sort of agreed that the Minister must sort of run or sort of own the PIC or run the PIC or be part of the PIC- what word can I use here, the oversight yeah. But in terms of directives, do you think there should be something done about

it or do you think the way the Act is structured, that's correct and all that?

I mean the issue of bonuses and that directive brings some big issues there. So broadly I mean what do you think about that area?

DR DANIEL MATJILA: Commissioner, I always want to draw parley with the private sector the role of shareholders versus the board as the company in so far as HR issues are concerned.

The shareholders in the listed companies approve the remuneration policy of the organisation on recommendation of the board to say shareholders can you approved this remuneration and this is an incentive scheme if they want to be even more transparent, they do show how incentives are calculated and so on and so forth.

And once shareholders approve that, the implementation is left to the board so that they can then implement in line with the parameters in the policy that they have approved. So I would have thought that the same kind of approach could be adopted in the case of the PIC as well.

That the Minister approves the remuneration policy in line with the corporate plan and then leaves the implementation to the board. That will be the easiest and the most elegant way of dealing with this kind of matters and allow the shareholder not to get involved in HR matters in other words of the organisation.

MR EMMANUEL LEDIGA: And this issues this REMCO issue, is this the only issue that would be affected by directives or there could be other issues?

DR DANIEL MATJILA: There are other directives for example there would be a directive dealing with austerity measures for examples. The National Treasury trying to improve on spending and so on or curbing spending and therefore tightening the belt in other words and would write to all state owned entities to say we shall do this and this and this. Cancel travel, put restrictions on travel and say you can't travel first class or you can't travel business class. Locally you can't do certain things, you can have team buildings and so on and so forth, that kind of things.

10 We've seen those kind of directives which had a negative impact on the PIC especially once we became a global investor or investor in the continent, people have to travel like 6 000 to 7 000 kilometres to go do due diligence there and you don't want the situation where they are in economy class, they can't even prepare properly. They fly for seven hours or so to be in the meeting the next morning to discuss very important issues.

 So those are some of the things that affected the way the PIC operates although they will say you can motivate for exceptions which is normally quite tedious to get approval for at times. So those ...

20 (intervenes)

MR EMMANUEL LEDIGA: Those would be the ones.

DR DANIEL MATJILA: Directives as welcome if they help with- they don't impose unnecessary inefficiencies on the organisation like the PIC or making it difficult for the PIC to perform its function effectively.

MR EMMANUEL LEDIGA: Ja, okay. Thank you.

MS GILL MARCUS: Perhaps just one small point going back to this question of this 40 billion roughly roll up.

I think that one of the challenges you've got with a fund that is that big is percentages can be quite deceptive in terms of actual amounts. If you look at it and say there's roughly 40 billion that is in question, if you take the entire employees of the Civil service contribution to the GEPF per annum, it's about 70 billion.

So if you're questioning it is what 58% of an entire employee contribution to the GEPF, its significant money. I'm not for one
10 instance questioning the fact that there will always be losses and things that occur in any fund. I'm just trying to relate the question of the actual money at that's in question here that as you've said rolled up to about 40 billion in relation to the contributions made ordinary by every civil servant in its annual contribution to the GEPF.

So I think that given the size it's really important and we've said this before to look at the actual money value that you're talking about as well as the percentages. Percentages can be small, the money level can be very big.

DR DANIEL MATJILA: Commissioner, I fully agree with you. I think
20 the big issue here is what is the issue with the 40 billion? So if the 40 billion is as a result of economic environment right, the cycle has turned and so on and so forth. So the position of the portfolio was not good enough, it was sitting in these sort of investments but they went through a proper rigorous process and so on and so forth, then we are happy with that.

But if there is a problem around impropriety that you raise and so and that this Commission is sitting trying to deal with, it's important that it gets done. So I fully agree with you. It's just that I'm excited about what we achieved so far as the organisation and I fully appreciate what the Commission has been set up to do and the impact that it might have in the operations of the PIC in the future. So I'm with you Commissioner.

CHAIRPERSON: Alright, can we carry on with the HR in general but can I just get word from council. Is it- I would suggest when we get to
10 investigations by the public protector, if necessary for DR Matjila to go through the first well the paragraph 626 and sit with it? Annexure paragraph 626.

DR DANIEL MATJILA: Yes.

ADV JANNIE LUBBE SC: Mr Commissioner, I can put on record that we've discussed it. It's not necessary for Dr Matjila to read it into the record, it is statistics.

DR DANIEL MATJILA: Yes.

ADV JANNIE LUBBE SC: It can be taken as read.

DR DANIEL MATJILA: Yes, absolutely.

20 **CHAIRPERSON:** Same actually with recommendations. Its recommendations suggested to us sitting here unless there's something that he would need to highlight?

ADV JANNIE LUBBE SC: That is what we also agreed.

DR DANIEL MATJILA: Yes.

ADV JANNIE LUBBE SC: There are some of the recommendation Dr

Matjila feels that he should highlight and I think he should be given that opportunity but it's not necessary for him to read all into the record.

MR EMMANUEL LEDIGA: Ja, but I do have questions and some clarifications on those sections too. So I do have quite a bit of questions there and clarifications.

CHAIRPERSON: That'll be fine, there's no problem with that. I'm just sort of shortening it in so far as what needs to be read into the record.

MR EMMANUEL LEDIGA: Ja.

ADV ALEXANDER ROELOFSE: Thank you, Mr Commissioner, can we
10 then proceed with the topic HR in general and paragraph 617? Dr
Matjila?

DR DANIEL MATJILA: Thanks, Commissioner.

“The PIC had roughly 372 employees in Fund year ended 31
March 2018. There are about 12 employees who have made
statement to this Commission raising various complaints of
victimisation, nepotism, unfair dismissal and sidelined from
promotions.

These are a small group of employees that have been subject
of disciplinary processes affected by some investigation. I
20 believe a fair process has been carried out in line with the
disciplinary policy of the PIC.

There are others who were courageous to approach me with
their problems. I have done all within my powers to resolve
their problems.

I have called many staff meetings where I implored employees

to alert me of their work challenges.

The reluctance to participate in the client survey of 2017 caused me grave concern and I gave them all my cell number and established a suggestion box as a means of allowing them to talk to me. I am glad some came out.

Their testimonies to this Commission was heartbreaking, more so that these alleged atrocities committed by people who charged with the responsibility of ensuring that the adherence to the PIC values.

10 I had started breakfast meeting with groups of employees to have a closer interaction with them. The first such breakfast meeting took place around August.”

I think Mr Motimele would have given us the time.

20 “After guaranteeing them confidentiality they opened up in that meeting. It became clear that some senior managers are not living the PIC value that’s expected. This has caused the PIC a lot of strain. It has become very clear to me from the two testimony of employees represented by the union and Mr Diamond Motimele that a lot of information that HR had received from unhappy employees did not reach the office of the CEO.

I only received information from employees that were courageous to do so.

In an attempt to get to the bottom of this I requested the head of Internal audit Mr Nema govhani to provide me with the full

whistle blower's report attached as annexure DD76.

There was nothing on staff matters. I was not satisfied with this report as the undercurrents pointed towards a distressed environment.

There can be no doubt that the PIC has been successful and well-run to date despite these challenges, the numbers speaks for themselves.

10 This is due to the efforts of these employees who I believe are committed to the vision and mission of the PIC and subscribe to the values of the PIC.

I strongly believe that the PIC had a good HR policies but the processes in the system to give effect to these policies were compromised by the leadership that was responsible to lead the implementation.

Naturally, nothing is ever perfect and there will always be a slip sometimes but not to this extent.”

CHAIRPERSON: Yes, Mr Lubbe?

20 **ADV JANNIE LUBBE SC:** Thank you. Mr Commissioner, I think what Dr Matjila stated here is a correct summary of what was stated by witnesses in this Commission, it's not a nice environment to work at and not all the employees had the courage to come forward and speak to Dr Matjila. They had not the courage to fill in even a survey electronically or put it in a box, so I've no further questions on this topic.

MS GILL MARCUS: In paragraph 621 you say that the information that

HR had received did not reach the office of the CEO but HR reported to the CFO, is that correct?

DR DANIEL MATJILA: Yes, Commissioner.

MS GILL MARCUS: So did any of these issues get raised with the CFO and were you advised by the CFO of any of the issues that were drawn to her attention or was it that there were no issues raised with the CFO given what we've heard about the relationships and the tensions there.

DR DANIEL MATJILA: Commissioner, it's clear that there were lots of issues that were raised by HR or by staff to HR and whether they came
10 via the office of the CFO or they should have or HR itself, the fact of the matter is they never reached the office of the CEO, they were never brought to my attention, so ...[intervenes]

MS GILL MARCUS: No, I'm accepting that, I'm just trying to understand whether you're aware subsequently whether any of these very critical HR issues were raised with the CFO or in fact if they were not getting resolved whether the head of HR in a board meeting or in an executive meeting raised any of these issues to say look, we have these concerns.

DR DANIEL MATJILA: No ...[intervenes]

20 **MS GILL MARCUS:** Because there seems to have been a gap in that.

DR DANIEL MATJILA: Commissioner, they were never raised, that's why we couldn't attend to them and we hear them in this Commission when various staff members, you know, made their statements including the reps of the union.

MS GILL MARCUS: Thank you.

MR EMMANUEL LEDIGA: Two questions here, two questions here. Just in terms of these reports do you think that, you know, there was somebody or some people who were sort of hiding sort of some kind of reports from you?

DR DANIEL MATJILA: I have no idea because as I said, I mean, we heard most of the issues in this Commission here, you know, demanding the whistle blower report was a way of trying to see if indeed staff have laid complaints and you can see – look, you can see the report that it's got nothing on staff, it's a lot of other things except
10 staff issues. You know, it's only one of Motimele – I mean, of Sibiya which was then resolved, was then dealt with properly, I believe.

MR EMMANUEL LEDIGA: So what happened then, did you like investigate to find some reports, the HR reports?

DR DANIEL MATJILA: This was basically at the tail end of my stay at the PIC.

MR EMMANUEL LEDIGA: Yes, yes.

DR DANIEL MATJILA: I never got a chance to get to the bottom of that.

MR EMMANUEL LEDIGA: You never got a chance, alright. And then
20 622, I think the second line:

“I strongly believe that the PIC had good HR policies but the processes, whatever, they were compromised.”

Can you expand further there please?

DR DANIEL MATJILA: I think the – although I guess my colleagues were able to demonstrate that for example the balance scorecard

process is a secure process, you know, it can be manipulated.

MR EMMANUEL LEDIGA: Yes.

MR DANIEL MATJILA: But it appears as if staff were concerned that, you know, this process has got weaknesses in them that certain things can be changed quite easily, you know, so that's one area. And there has always been concerns about issues of promotion.

MR EMMANUEL LEDIGA: Yes, yes.

DR DANIEL MATJILA: You know, complaint around – ja, promotions, adjustment of remuneration, you know, those issues I'm saying the
10 policy is clear how they should be done but if staff is raising issues then there may be places where they were not done to the satisfaction of employees, in other words.

MR EMMANUEL LEDIGA: Ja, ja. So do you then give credence to, you know, people saying there were problems there with promotions and balance scorecard processes?

DR DANIEL MATJILA: And I would love to see evidence to that effect to say indeed these are instances where there were problems.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: I haven't seen those clearly except for case
20 that I know at senior level, I mean, we spoke about Ntuane(?) and we spoke about Petro Decker.

MR EMMANUEL LEDIGA: Yes.

DR DANIEL MATJILA: There was a lengthy discussion around Reubena Solomons, absorption into a higher position that didn't sit well, you know, with other people. You know, I'm hoping that the issue

of Katlego Lebada has been buried, you know, the fact that he's not my son, he's at that position on merit, he was appointed in a position on merit.

So those kind of issues that have been raised that have caused, you know, staff concern around the application of policies, you know, ja.

MR EMMANUEL LEDIGA: Ja.

DR DANIEL MATJILA: So I still believe that the policies are okay, they're sufficient enough.

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

DR DANIEL MATJILA: It's more questioning the implementation in some instances.

MR EMMANUEL LEDIGA: Alright and then the final question is just to get a comment from you. They always talk about the top three, you know, the top three and that there's a floor – I think it's the fourth floor that the top three sit in, I think – is it second floor? Which? 7th? Ja, so they say it's the top three, they sit there, it's nice and they lock themselves up and they don't interact with the community and the others and all that, you know, so there's just a feeling that you three
20 are like, you know, just separate and privileged and those things.

DR DANIEL MATJILA: I'll speak for myself and I don't know – I mean, Chris' office is on the 3rd floor, I think, 3rd or 2nd floor.

MR EMMANUEL LEDIGA: Oh, no, no, no, so sorry, they said the two actually, not the three, actually, they said the two, ja.

DR DANIEL MATJILA: Yes. So we are both on the 7th floor. Our

offices were up there with some of course meeting rooms and with internal audit, I think, is one other department that was on the top floor and our offices has always been accessible.

My office has always been accessible, I've made sure that people are free to come and there's been a lot of traffic, we'd sit and discuss things on regular basis and I've always made an effort that once in a while I would visit the work station of all employees, literally walk around, greet all of them, chat, you know, and then in addition to that, staff meetings, especially at the time when the PIC was under
10 huge pressure and the media was all over us, Pretty Louw, almost every second day or so. I needed to give them, you know, take them – what's the word, you know? Ja, taking them into – them taking me into their confidence that, you know, the PIC is not about to fall apart and, most importantly, all what they hear are just allegations and they're untrue for that matter. So I needed to keep them, you know, focused on their work, you know, that the PIC was not about to fall apart. It's in good shape and hear them out around issues that are bugging them. It's a pity that they couldn't come out for some reason that they have given here, you know, even the whistle blowing platform was not
20 helping, client survey has not done well.

But Commissioner, I think I've made myself accessible, more than accessible. Sometimes I'm actually being accused of being too accessible whether from external or internal, you know? But I've taken a view that the CEO's position is not – is to be accessible, you need to talk to people, you need to talk to clients, you need to talk to different

stakeholders, that's what the job is about, you know? So I think I was accessible to staff, you know?

I can't speak for my other colleague but from what I see, you know, we had lots of meetings at the PIC. I mean, there's a lot of meetings from Exco to management meetings to all kinds of meetings where we interrupt either at senior level and with staff, you know, and so I think we were very much accessible.

MR EMMANUEL LEDIGA: Alright, thank you, thanks.

CHAIRPERSON: Suggestions, do we break now or do we go on to
10 responses to some witnesses and break thereafter?

ADV JANNIE LUBBE SC: Mr Commissioner, I think in all fairness to the witness perhaps it's an opportune moment to take the lunch adjournment.

CHAIRPERSON: We'll adjourn until two o'clock.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Right, Dr Matjila. You are still under oath, again.

DANIEL MATJILA: (s.u.o.)

ADV JANNIE LUBBE SC: We are ready to proceed, Mr Commissioner.

20 **ADV ALEXANDER ROELOFSE**: Thank you, Mr Commissioner. Mr Commissioner, we are page 208. Mis-numbered paragraph 467. Indeed. Perhaps we can call it 622.1.

DR DANIEL MATJILA: Thank you, Commissioner.

"Ms Menye was about go on a spending spree under the so-called modernisation of the PIC IT platform. Similar to SARS 1, I guess.

The first such was the purchase of telecommunication, conferencing facility for twelve offices at the costs of twelve million.

This was followed by an attempt to get the one billion rand budget for the modernisation approved.

The CFO and myself did not support this budget, as we believed that the PIC can spend no more than two-hundred million in three to five years to upgrade its IT platform to a world class standard.

Our refusal must have angered Ms Menye. The relationship between her and the CFO was very tense. I fully supported the CFO, as she has
10 been frugal with the finances of the corporation.

Mr Alvin Schiel and Mr Sandile Sibiyá's issues have been dealt with by Mr Pholwane and Ms More in their statements to this Commission.

Mr Marthinus de Jongh's issues were dealt with by Mr Roy Rajdhar in his statement on Daybreak Farms. I must also point out that Mr De Jong reported to Ms Buzzetti. Mr Buzzetti was then the Head of Isibaya at that time. In fact, she is the one who appointed him.

I had a short interaction with him, Mr De Jongh, during the organisational restructuring and then subsequently he reported to Mr Rajdhar.

20 The comment threat amongst most of the witnesses claiming victimisation is the narrative that I am a bad person. It is what is called mobbing, in my view.

It occurs as an emotional abusing the workplace, such as ganging-up by co-workers, subordinates or superiors to force someone out of workplace through rumour, innuendo, intimidation, humiliation,

discrediting and isolation.

James Ngo starts the rumour and the innuendos and the media sustains their attack. These employees are less than five percent staff compliment.

I have led the PIC to success with humility and enjoyed the support of most of PIC employees and majority of directors in the PIC...”

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

ADV JANNIE LUBBE SC: I just have a few questions, Mr
10 Commissioner. Dr Matjila, with regards to Ms Menye. I have spoken to her when she testified and I have now again checked with her, this afternoon, after two. Just before two when we started. My instructions are that you are not correct with regard to the purchase of the teleconferencing system for twelve offices at a cost of twelve million. She tells me and it was confirmed by the IT Department. That was already approved before she joined the PIC in December 2016.

DR DANIEL MATJILA: Commissioner, I would like the Commission to check with finance. They will be able to provide full information of the payments. The system, when it was required and the payments thereof.

20 **ADV JANNIE LUBBE SC:** The second point is that she never, according to her, applied or attempted to apply for a billion budget for the modernisation. She says it was an amount of five-hundred million over a period of five years. I am not trying to cross-examine you. I am just putting Mr Menye’s version to you, so that you can comment on that.

DR DANIEL MATJILA: Okay. My understanding is that she was applying for a billion over a five-year period. Three to five-year period. A billion over three to five-year period.

ADV JANNIE LUBBE SC: Thank you. And then with regard to common threat you are talking about. My understand is, not that the employees referring to you as a bad person but the impression is that in the PIC, if you do not toe the line and do what you are told to do you are in trouble.

And on the evidence led thus far in this Commission, I can talk
10 about a golden threat, when I talk about the former CEO, Mr Masilela, Mr Ntuane, Dr Thabi Semanya. Senior people leaving the PIC under a cloud and the golden threat is, as soon as you do not toe the line there is a Whistle-blower report or allegations of misconduct. You are hold before a disciplinary and that is the end of you. Can you comment on that?

CHAIRPERSON: Can I just make sure? I think you mentioned Masilela.

ADV JANNIE LUBBE SC: Yes, I mentioned Mr Masilela, the former CEO.

20 **CHAIRPERSON:** I am probably mixing my Sello with Masilela.

ADV JANNIE LUBBE SC: It is Mr Masilela, the former CEO.

DR DANIEL MATJILA: Commissioner, I cannot comment on Mr Masilela. I think he reported to the board. So, the board at the time would be in a better position to explain themselves on this matter.

ADV JANNIE LUBBE SC: I am sorry to interrupt you. You knew at the

time that there was a board investigation?

DR DANIEL MATJILA: Yes, that is the one that I am talking about that they conducted. I think, I did talk about it in this Commission. You know. And Commissioner, the other issues he calls, I mean, they talk about the golden threat which I do not think it is golden. The way I see it. You know. And most of the people who came here to testify around the CEO in particular.

I mean, I am talking about myself. Who claim that I do not lead. I rule. I am powerful. Some of the statements were even made
10 by the Commissioners themselves which I do not agree with because I have always rendered an organisation in an open and transparent manner. You know, the way I think. And I have allowed staff to express their views. To be innovative. To contribute without any fear.

And I do not want to say that I am not aware of all the other challenges that they have in the organisation. That we have not been able to deal with to their satisfaction, unfortunately. But from where I sit, I would say, I have tried my best to run the organisation in a proper manner. Of course, I am not doing it alone. There are other players and if important players in this are not assisting, are not helping in
20 driving the values of the organisation, then we pick up problems, as we have seen.

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

CHAIRPERSON: I am just a bit worried about you mentioning the Commissioners. I do not know whether I heard you correctly. That we might have used some terms or names

DR DANIEL MATJILA: No, I was raising ...[intervenes]

CHAIRPERSON: With reference to you.

DR DANIEL MATJILA: Yes, I was raising the issue of being called powerful, you know. I think those that was mentioned and we spoke about it yesterday. I guess. I remember in closing. And I think we found each other on that. I am comfortable. But those were the issues for me.

ADV JANNIE LUBBE SC: Mr Commissioner, perhaps I can assist. I initiated this debate on powerful, being – having the CIO and the CEO
10 in one position as powerful. And it was picked up by the Commission, but not on the basis that you are powerful.

DR DANIEL MATJILA: Okay, I am all right with that.

MR EMMANUEL LEDIGA: Ja, just in terms of paragraph 467. And if I can recall. Ms Menye said that the budgeting – the budget or the budgeting process. That you collect pricing material, you know. You do a budget but it is not something which is approved, but you collect information about the systems and whatever, the equipment and the pricing. And it is then after that, then you can present a proper budget. So I thought she said it was not really something to approve, but she
20 was preplanning that particular budget.

DR DANIEL MATJILA: Maybe ...[intervenes]

MR EMMANUEL LEDIGA: Can you recall that? Ja?

DR DANIEL MATJILA: Maybe there was a misunderstanding, because one I know is that she was on this item modernisation project for a while and she presented to relevant committees, seeking approval for

the capital expenditure.

MR EMMANUEL LEDIGA: You are saying it is one billion rand?

DR DANIEL MATJILA: Yes, as far as I can remember. It was one billion that she was asking for over a period of time.

MR EMMANUEL LEDIGA: Okay, and it went to sort approval committees?

DR DANIEL MATJILA: Yes, I remember it went through to the main committee that deals with IT, ICTGC. Yes.

MR EMMANUEL LEDIGA: Okay, all right. So, I... Okay. Well, she
10 said something different, but it is fine. I think we can check that.
Thank you.

MS GILL MARCUS: Just for record purposes. I think that, that is 6231. That paragraph that you are referring to.

DR DANIEL MATJILA: Yes.

MS GILL MARCUS: We named it here.

DR DANIEL MATJILA: It is a typo. Apologies.

MR EMMANUEL LEDIGA: 623?

MS GILL MARCUS: Point one.

DR DANIEL MATJILA: Yes.

20 **MR EMMANUEL LEDIGA:** Point one. Okay.

ADV ALEXANDER ROELOFSE: If there is no further questions, Commissioners. We can proceed to read the paragraph 626, which is Investigations by the Public Protector.

ADV JANNIE LUBBE SC: Mr Commissioner ...[intervenes]

CHAIRPERSON: Is there anything that can be done with this noise?

ADV JANNIE LUBBE SC: We cannot proceed with this noise. Can we have a five minute adjournment that we can attend to that?

CHAIRPERSON: [No audible reply]

ADV JANNIE LUBBE SC: Thank you, Mr Commissioner.

DR DANIEL MATJILA: 626, Commissioner. These are investigations by the Public Protector.

“The Public Protector has conducted several investigations. The allegations made by various people and so-called Whistle-blowers. The table is provided on the next page. It provides a full chronological of
10 investigations, which to date have put the PIC under a lot of pressure. I have personally suffered physically, emotionally, and mentally under these pressures. The stress that I had to endure has also deeply affected my wife and children. I have provided a comprehensive response to this request.

The Public Protector Investigations covered the period from Mr Jonas, as the Chairperson, Mr Buthelezi and Mr Gungubele.

The PIC has not received feedback from the Public Protector on the status of some of these reports...”

ADV ALEXANDER ROELOFSE: You do not need to read the actual
20 reports. Dr Matjila, I just want to ask you though. When you say the Public Protector. There have been two. There has been Ms Modonsela and Ms Busi Mkhwebane. When you say the Public Protector has conducted several investigations, is that one or the other or both?

DR DANIEL MATJILA: It is the office, starting with the previous Public Protector and the current. So some of the work has been carried over

to the new Public Protector.

ADV ALEXANDER ROELOFSE: No further questions.

ADV JANNIE LUBBE SC: I have no questions.

MR EMMANUEL LEDIGA: Question here. Is that, is there something maybe you are trying to tell us or are you just saying there was just some pressure? Or, I mean, is there something else? I mean, that you are trying to convey, maybe? Because I could not think it through properly.

DR DANIEL MATJILA: I was simply saying the PIC has been under
10 investigation. Some of these issues that the Commission is dealing with here, has been dealt with elsewhere. You know, there are other parties who have been working on them. In other words. You know.

MR EMMANUEL LEDIGA: Yes, yes.

DR DANIEL MATJILA: But we have not received feedback on some of them.

MR EMMANUEL LEDIGA: Any feedback. Ja, ja. Okay.

DR DANIEL MATJILA: The only feedback, if I remember, is the one on Sibiya, about this thirty-two million. If my memory serves me well. You know.

20 **MR EMMANUEL LEDIGA**: Okay. Maybe we must think about this and see whether we can talk to the Public Protector then.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: Ja. Advocate?

ADV JANNIE LUBBE SC: Yes, Mr Commissioner, through you. We have tried to get some cooperation with the Public Protector without

success.

MR EMMANUEL LEDIGA: Okay. All right. Thank you.

CHAIRPERSON: But are you able to say which matters are being dealt by the Public Protector that we are dealing with?

DR DANIEL MATJILA: If I am quick. I think there is the S&S Refinery, as an example. The issue of bonuses has been dealt with. The whole James Ngo allegations, Commissioner.

MR EMMANUEL LEDIGA: SacOil.

DR DANIEL MATJILA: SacOil, as well. In the past.

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

DR DANIEL MATJILA: SacOil has been looked at. The allegations of Mr Holomisa or the complaint by Holomisa.

MR EMMANUEL LEDIGA: Holomisa, yes. I saw that. Afric Oil, I think.

DR DANIEL MATJILA: Yes, Afric Oil.

MR EMMANUEL LEDIGA: Afric Oil is William Keze.

DR DANIEL MATJILA: That is right.

MR EMMANUEL LEDIGA: And then? The S&S.

20 **DR DANIEL MATJILA**: The S&S. And as I said the whole James Ngo allegations from MST to bonus payments to victimisation to promotion. That lengthy one. And my so-called son. And so on. They were all investigated by the Public Protector.

ADV JANNIE LUBBE SC: Mr Commissioner, the complaints lodged with the Public Protector are covered by the Terms of Reference of this Commission. All of them.

CHAIRPERSON: I think we are getting to recommendations. Are there some things that you need to highlight there?

MR EMMANUEL LEDIGA: [Indistinct]

CHAIRPERSON: Ja, we will go back to transactions. I just want to finish this part.

DR DANIEL MATJILA: Okay. Thanks, Commissioner. I will go to...[intervenes]

CHAIRPERSON: Just give me a moment. What do counsel suggest? Do we go to transactions now or shall we simply complete
10 recommendations?

ADV ALEXANDER ROELOFSE: We can start off with transactions, Mr Commissioner.

CHAIRPERSON: Let us do that.

ADV ALEXANDER ROELOFSE: So we go back to page 136, paragraph 387, dealing with the Independent Media Group on Sagarmatha transactions. Page 137, paragraph 387.

MR EMMANUEL LEDIGA: Ja, we can start. Are you fine?

DR DANIEL MATJILA: Thank you, Commissioner.

“The chairman of Sekunjalo Consortium, Dr Abel Survé approached me
20 in early 2012 to test if the PIC could fund Sekunjalo to acquire hundred percent of the business of Independent News Media, South Africa (Pty) Ltd, which we will call INMSA from Independent News Media Plc, INM. I advised him to provide me with a formal investment information memorandum which I passed onto the Private Equity Team to evaluate. I must stress that once I have handed over a transaction to the Deal

Team, I do not get involved in the transaction until the Transaction Team advises me that they are ready to take the transaction to the next stage.

In terms of the due diligence practice, the PIC did not issue any letter of support because a competitive bidding process was being run by Investec on behalf of the seller, INM.

On the 26 July 2012, Sekunjalo made an unsolicited offer of 2.2 billion to INM, the seller.

The price was based on the 2011 audited financial statements on the
10 earnings before interest, tax depreciation and monitorisation basis of R 373 million and an enterprise value of multiple of 5.9 times.

The seller did not entertain the offer and it expired accordingly. Sekunjalo was not the only bidder that approached the PIC, albeit the first to do so. In other words, to approach the PIC for financing.

The other was Blueprint Consortium, led by Mr G Shabaleng and advised by HSBC. I understand there were twenty bidders in total.

A Chinese Group advised by Standard Bank, Mr Patrice Motsepe, Mr Robert Gumede, a journalist at INMSA, a group of journalist at INMSA, led by Ms Ann Crotty and the Gupta-family through the new HTNA, as
20 well as various private equity groups.

Sekunjalo won the preferred bidder status following which they commenced with due diligence. A potential competition breach was identified and furthermore the normal for year 31st December 2012 came down to 272 which below forecast. Sekunjalo revised its offer to two billion.

The PIC then issued Sekunjalo with an expression of support, subject to PIC's internal processes, including due diligence by the PIC.

Sekunjalo made a proposal for the PIC to breach the two billion consideration required while it was concluding a capital raise from other investors, including INTERA Com, a Chinese media company.

Once the capital was raised, the PIC will have an exposure of on one billion, inclusive of the 25% equity.

I now discuss the governance processes involved in this transaction, in the approval of the transaction.

10 On the 4th of February 2013, the Portfolio Management Committee Unlisted Investments, having completed necessary due diligence, resolved to recommend the transaction to the IC as follows.

- An irrevocable approval to invest two billion plus forty rands, forty million rands, towards due diligence, costs and advisory fees and for the purchase of 100% of Independent News Media South Africa.

20

- To implement the financing structure where PIC will advance shareholder loans of 1.3 billion to Independent News Media South Africa to take up 35% equity in NMSA and provide a loan of five hundred million to Sekunjalo to acquire an equity stake in INMSA. The IC at this meeting of the 6th of February 2013, gave an in principle approval on the basis that the transaction does feed the

mandate and will recommend to the transaction to the board, provided that the board deliberate and adjudicate on the reputational risk issues.

- There should be no material changes in the audited financial statements for 2012 financial years.
- Personal sureties provided by the key sponsor for the PIC loan of five hundred million to the Sekunjalo Consortium.

10 The board accepted the recommendation of the IC.

The PIC presented the proposal to the GEPF on the 21st of February 2013, because the two billion exposure needed approval as per new limits they had imposed in their mandate to the PIC in response to the collapse of AfriSam.

The GEPF expressed its discomfort with it's the exposure, even though, it was within the limits described in the private placement memorandum, PPM.

Their concern was that the asset was in a sector that had a bleak future. Although, GEPF was not supportive of the deal, their view was

20 that the PIC can make a decision, as long as the exposure does not exceed two billion.

The Board met on the 22nd of February, to discuss the recommendation of IC.

It did not support the proposal but decided that the Transaction Team should pursue a revised proposal based on a lower price and a possible

investment in a secure instrument, such as that with another investor, sharing the risk in equity. The revised proposal when ready, can be submitted to the board directly.

The board met again on the 11th of March 2013, to consider a revised transaction from the Transaction Team.

After deliberation on the merits and demerits of the transaction, the board finally approved a maximum of 1.44 billion investment into INMSA, as follows:

- 10 - Direct PIC equity of 25% for 1.67 million into INMSA.
- Shareholder loan to INMSA of 773 million redeemable at an IRR of 15% per annum, secured by assets of INMSA, ranking below the facilities and other rights.
- Equity loan to Sekunjalo five-hundred million at six months, Johannesburg Interbank Brewing average rate ...[indistinct] plus a margin of 7% to 9%. Secured by a 150 million corporate guarantee from Sekunjalo Investment Holdings.
- 20 A majority shareholder in Sekunjalo Consortium. With all shares in INMSA held by Sekunjalo ceded to the PIC as security, as well as other stepping rights to be negotiated. The balance of six-hundred million debt must be raised from banks, on the back of the PIC guarantee within

six months and an introduction of staff incentive scheme and the current CEO agreeing to remain.

As part of its capital raise to reduce PIC exposure, Sekunjalo approached the China African Development Fund, a private equity fund that has been investing in the continent.

The ...[indistinct] fund through INTERA Com took up a 20% equity in INMSA plus senior debt. An amount of 397 million was repaid to the PIC and thus reduced the total exposure to R 888.3 million.

The ...[indistinct] reports that the PIC had invested two billion were
10 false. The final exposure after the entry of a new investor was less than a billion.

The loans and claims were as follows...”

(end of recording)

DR DANIEL MATJILA: Table on the next page, Commissioner.

“The instrument direct equity 25% in INMSA for an amount of 237 million. In the beginning 71 million was repaid and the next exposure was 166 million and this was supposed to exist in seven years.

Shareholder loan from PIC to INMSA of 183 million which would mature
20 on the 16th of August 2020.

Term loan from PIC to Sekunjalo of 571.9 million of which 325 was repaid and the balance was 253.933 million to be repaid on the 16th of August 2018.

And the prep shares from PIC ...[indistinct] to the value of 285 million. This would mature on the 29th of August 2021.

So the total loans and claims would be 883.3 million. That is the exposure.

This transaction attracted significant media attention. The Gupta-family had previously failed in their bid and it was common cause that the family continued to want a stake in the investment.

After completing the transaction, I later learned that they had an option to buy 27.5% of INMSA from Sekunjalo which was agreed at the time Sekunjalo was looking for investment partners.

I was concerned with the idea of possibly assisting or allowing the
10 Guptas to boost their propaganda machinery by taking up a shareholding in INMSA.

Had they obtained any shareholding in INMSA it would have narrowed participation in the media space and seriously increase the risk of both diminishing competition and the risk of breach of Competition Law by the PIC. So, I was totally against the idea and refused their participation.

Subsequently, we observed that most media houses experienced a drop in government business with INMSA being the hardest hit.

The asset ...[intervenes]

20 **MR EMMANUEL LEDIGA**: Sorry. Some clarification here. Just on the table. In terms of the 25% in the equity. You say the maturity date is seven years. I do not understand that in an equity...

DR DANIEL MATJILA: No, Chair. The idea was to exit in seven years.

MR EMMANUEL LEDIGA: In seven years.

DR DANIEL MATJILA: Ja, it is an exit.

MR EMMANUEL LEDIGA: Which will be what? 2020, I think.

DR DANIEL MATJILA: Which will be 2020. Next year.

MR EMMANUEL LEDIGA: 2020. Ja.

DR DANIEL MATJILA: Absolutely.

MR EMMANUEL LEDIGA: And then the second one. Shareholder loan. Does it bear any interest?

DR DANIEL MATJILA: It has to be redeemed at an IRR of 15% per annum.

MR EMMANUEL LEDIGA: Okay, but did not ...[intervenes]

10 **DR DANIEL MATJILA:** Which did not imply interest rate because of funding.

MR EMMANUEL LEDIGA: At the end. It is not sort of ongoing payments in the interest.

DR DANIEL MATJILA: Absolutely. No ongoing payments.

MR EMMANUEL LEDIGA: Okay.

DR DANIEL MATJILA: But has to be redeemed at 15%...

MR EMMANUEL LEDIGA: Per annum.

DR DANIEL MATJILA: By IRR.

MR EMMANUEL LEDIGA: IRR.

20 **DR DANIEL MATJILA:** Ja.

MR EMMANUEL LEDIGA: Okay. Complete. At the end of the period.

DR DANIEL MATJILA: At the end of the period, Commissioner.

MR EMMANUEL LEDIGA: Okay. All right. And then the term loan expires in August, last year, actually.

DR DANIEL MATJILA: Yes, yes.

MR EMMANUEL LEDIGA: The repayment.

DR DANIEL MATJILA: Yes.

MR EMMANUEL LEDIGA: Total. Sort of hundred percent of the...

DR DANIEL MATJILA: Absolutely.

MR EMMANUEL LEDIGA: Okay.

DR DANIEL MATJILA: The 253 million.

MR EMMANUEL LEDIGA: Okay. All right.

DR DANIEL MATJILA: Was supposed to be repaid last year.

MR EMMANUEL LEDIGA: Okay. Thank you. Ja. And the preps, of
10 course, 2021 then. Ja?

DR DANIEL MATJILA: That is correct.

MR EMMANUEL LEDIGA: The preps on in 2021.

DR DANIEL MATJILA: That is correct.

MR EMMANUEL LEDIGA: Do they carry any preference dividends?

DR DANIEL MATJILA: Yes. I do not have the percentage, but they
would have a dividend.

MR EMMANUEL LEDIGA: Some prep dividends.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: And were they paid? Sort of repaid. Do
20 you know the preference dividends?

DR DANIEL MATJILA: They are only due in 2021.

MR EMMANUEL LEDIGA: Oh, the whole sort of the capital amount
plus interest.

DR DANIEL MATJILA: Plus interest. Yes.

MR EMMANUEL LEDIGA: The preps now.

DR DANIEL MATJILA: Yes, the rolling-up. But I think the interest was rolling up.

MR EMMANUEL LEDIGA: Oh, I see.

DR DANIEL MATJILA: Ja.

MR EMMANUEL LEDIGA: They were not supposed to be paid on an ongoing basis.

DR DANIEL MATJILA: That is my understanding.

MR EMMANUEL LEDIGA: It is sort of a roll-up of the preps dividends.

DR DANIEL MATJILA: Yes, that is my understanding.

10 **MR EMMANUEL LEDIGA**: Okay. All right. Thank you.

DR DANIEL MATJILA: Can I proceed? Okay.

“The asset has performed very poorly in terms of financial returns in other media, print media companies. For example, Tiso Blacks Group is down 72%, Caxton Publishers 50% from 2014 to date.

On the social return side, I strongly believed that the investment has facilitated transformation and localisation on one of the oldest and the largest newspaper groups in the country.

It is contributing to the democracy by keeping citizens informed, as expected for a media company. This has a direct impact on the

20 economy, which of course, is a driver of investment performance in client portfolios.

The INMSA has not been able to meet its obligations due to a tough operating environment. I understand that Sekunjalo Investment has funded most of the working capital so far.

Sekunjalo approached the PIC as early as 2017, September with a

proposal to restructure the loans and claims that are due and payable to the PIC.

The PMC.

(I think there is a mistake there.) I think it is the 31st of October 2017.

A copy of which is attached and marked as DD58, discuss the proposal from Sekunjalo Investment Holding (Pty) Ltd, SIH.

SIH proposed to acquire all the shares and loan claims that PIC has in Sekunjalo, in exchange for service in the new company to be listed, named Sagarmatha.

10 This would provide the PIC with an exit from INMSA. This new company was expected to have a primary listing on the JSE and the secondary listing on the Hong Kong and New York Stock Exchanges.

SIH presented the offer to the PIC, whereby all equity and loan claims to the amount of 1.55 billion were to be converted to shares in Sagarmatha at a listing price to be published in the prelisting statement. The table below summarised the offer to the PIC...”

20 So, the amount invested, as we said before, was 888.3 billion and the valuation was about 1.3 billion of all the loans and claims and SIH offer, the Sekunjalo offer was for R1.5 billion worth of shares in the new listing.

“The PIC counteroffer was for the conversion of 334 million equity. In other words, only the equity component in INMSA into equity in Sagarmatha and all loans and claims to be settled at the ...[indistinct] values as at the 30th of October 2017.

The PIC’s counteroffer allowed the PIC to fully exit the loans and prep

shares with a return of 13%. Furthermore, the Listed Investment Team would carry out its own analyses and assess appetite for the new listing. The PMC recommended the transaction to PEPS FIB for consideration. The PEPS FIB considered the proposal at its special meeting on the 6th of December 2017. A copy of the minutes and resolution is attached and marked as DD59.

The FIB raised various issues around the proposal. The team highlighted that the offer is conditional on the PIC's participation in the listing of Sagarmatha and that there will be no cash pay-out but issuing
10 of shares.

The FIB requested the Listed Investment Team should test the appetite of the IC, even though the transaction falls within the delegative authority of the PMC Listed Investments.

The FIB approved the proposed offer for SIH to acquire all PIC shares and claims in INMSA and SIH, subject to:

- The exit not depended on the listing of Sagarmatha.
- The requisite approval of board of directors and shareholders should be obtained.
- 20 - IC must confirm appetite for this transaction.

This approval was adduced to an agreement signed by me on behalf of the PIC and concluded with SIH. One of the suspensive conditions of the agreement was the successful listing of Sagarmatha, which ultimately never happened and therefore the agreement never became operational and lapsed. A copy of the agreement is attached and

marked DD60...”

ADV ALEXANDER ROELOFSE: I think just stop there. Commissioner, I think that we will stop at that point in time. I do not have any questions.

ADV JANNIE LUBBE SC: Mr Commissioner, my colleague, Mr Monnahela will do the questioning.

ADV ISAAC MONNAHELA: Thank you, Mr Commissioner. Dr Matjila, may we start with the James Ngo emails. Did any director of the PIC Investee company have an interest in the allegations made by James
10 Ngo and levelled against you?

DR DANIEL MATJILA: Yes, Commissioner.

ADV ISAAC MONNAHELA: Who was that businessman?

DR DANIEL MATJILA: It was Dr Iqbal Survé.

ADV ISAAC MONNAHELA: Why did he have an interest in the allegations against you?

DR DANIEL MATJILA: The issue of James Ngo was in the news and he asked for a copy because his journalist wanted to write a story. We were writing a story about it. An article about James Ngo emails.

ADV ISAAC MONNAHELA: So, the allegations were in the news. Why
20 was it necessary for you to forward the emails to him because you forwarded the emails to him?

DR DANIEL MATJILA: He wanted to see the emails because some other journalist had those emails already. That is why the story was in the news.

ADV ISAAC MONNAHELA: Okay, there is an email of the

8th of November 2017. That is email correspondence between you, Ms Menye and Mr Simphiwe Mayisela which was marked, strictly confidential. You also forwarded that email correspondence to him.

DR DANIEL MATJILA: That is correct.

ADV ISAAC MONNAHELA: When did it lose its confidentiality?

DR DANIEL MATJILA: Once it was in the newspapers that I have been investigated by the SAPS. A case has been opened against me with the SAPS.

ADV ISAAC MONNAHELA: Okay. So, you only... The case was
10 investigated. I think it started in... Is it October 2017? So it only became necessary for you to inform him about it on 8 November 2017?

DR DANIEL MATJILA: Repeat the question I did not understand the question.

ADV ISAAC MONNAHELA: I mean, the issue of the case started in October 2017, if I remember correctly. And you only forwarded the email to him on the 8th of November. Why did you not forward them to him in October? Instead, you did it on 8 November 2017.

DR DANIEL MATJILA: He requested the information..

ADV ISAAC MONNAHELA: Okay, let us go to the agreement that you
20 referred to at paragraph 407 of your statement. The offer or the proposal, I understand, was made by Sekunjalo Independent Media. Am I correct?

DR DANIEL MATJILA: Yes.

ADV ISAAC MONNAHELA: And if you look at the agreement, it is an agreement between PIC, as representative of the GEPF and

Sagarmatha. The agreement is Annexure DD60 to your statement.

DR DANIEL MATJILA: Ja, I think we have it. It is in the supplementary bundle.

MR EMMANUEL LEDIGA: We have got it.

ADV ISAAC MONNAHELA: Mr Commissioner, I have it but it is not... I do not have it as annexure to Dr Matjila's statement. It forms part of the annexures to Mr Ndadza's statement. Mr Commissioner, the agreement that I am referring to is the Sale of Shares and Claims Agreement. Mr Commissioner, may I just ask for a short adjournment?

10 It looks like Dr Matjila does not have it with him.

CHAIRPERSON: Ja, but I would like to know. Are you talking about a different document to DD60?

ADV ISAAC MONNAHELA: Mr Commissioner, the agreement that I understand to relate to the approval. The PEPS FIB approval. It is the Sale of Shares and Claims Agreement. Unless, I am making a mistake.

DR DANIEL MATJILA: Well, mine is headed, Payment Agreement between Independent News Media South Africa, etcetera. And Sekunjalo Independent Media and Government Employees Pension Fund. That is the document of DD60. That is not what you are
20 referring to?

ADV ISAAC MONNAHELA: May I then ask for just a short adjournment, so that we can make copies of the agreement that I am referring to?

CHAIRPERSON: These annexures that you have?

ADV ISAAC MONNAHELA: I believe so, Mr Commissioner.

CHAIRPERSON: You will let us know when you are ready?

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes Mr Monnahela?

ADV ISAAC MONNAHELA: Thank you Mr Commissioner. Dr Matjila I have handed over two copies of the agreement that I thought you were referring to as annexure DD60. The one that I have given to you is a sale of shares and claims agreement. May you please turn to the last page of that agreement. Is that your signature that appears on that
10 agreement?

DR DANIEL MATJILA: Sorry Commissioner, it is my signature.

ADV ISAAC MONNAHELA: And you signed it on the 13th December 2017?

DR DANIEL MATJILA: Yes.

ADV ISAAC MONNAHELA: That is some six days after the PEPSS FIP took that resolution?

DR DANIEL MATJILA: That's right.

ADV ISAAC MONNAHELA: What was the basis for you signing that agreement?

20 **DR DANIEL MATJILA:** Because the FIPs is happy that we can exchange the loans and claims for shares in the company to be listed later on.

ADV ISAAC MONNAHELA: In which resolution did they say that?

DR DANIEL MATJILA: (No answer).

ADV ISAAC MONNAHELA: You say the FIPs was happy, now my

question is in which resolution did they say that because the only resolution that I'm aware of is the one of the 6th December 2017.

DR DANIEL MATJILA: Commissioner what I know is that there was a discussion around this and acceptance of our loans and claims, in other words PIC into equity of a new company to be listed at a later stage, this is an agreement recording that desire, there's no listed company yet, this is just a desire to say if it lists then we will subscribe for those shares at that point.

CHAIRPERSON: No, no I think the question is different, I suppose one
10 should ask was there a resolution that was passed in respect of this agreement, if so where is it?

DR DANIEL MATJILA: Commissioner I'll have to look at it because I remember quite well this document here was prepared by the team, in fact I was asking the evidence leader why he didn't invite Mr Mervin Muller who was very much close to this thing here, he will give a much better view of the process and what led to the signing of this agreement you know so I don't have all the information around me. In fact if I look at this Mr Muller is the one who was completing the form I only signed on it on the basis of their recommendation. So there would be some
20 information somewhere that authorises this because this was even commissioned, Commissioner this sale agreement was prepared as you can see by a legal firm here TGI you know so we made need more information as to how we arrive at this.

ADV ISAAC MONNAHELA: But Dr Matjila that cannot be true because on the 26th January and I didn't know that you were going to say this,

on the 26th January 2018 the same Mr Mervin Muller addressed a letter to Dr Iqbal Survé where he dealt with or set out the approval by PEPSS FIP and set out the conditions precedent and Mr Commissioner that letter was annexure D to Mr Ndadza's statement if I may be permitted to read it into the record, it's addressed to Dr Survé it reads as follows:

“Dear Dr Survé”

And then the subject of the letter:

10 “Approval letter in respect of the offer from Sekunjalo Independent Media Proprietary Limited to acquire all the shares and loan claims that the PIC has in and against Independent News and Media South Africa Proprietary Limited and SIM.”

Then paragraph 1 reads as follows:

“We refer to your SIM's proposed offer to acquire all the shares and loan claims that the Public Investment Corporation SOC Limited has in and against INMSA and SIM.

The offer: This letter serves to confirm that the PIC's Fund Investment Panel FIP has approved the offer subject to the terms and conditions included in this letter.”

20 Paragraph 2:

“The key terms and conditions of the approval include and are not limited to:

1. PIC's 25% equity stake in Independent Media to be acquired at 100% premium to the price paid by PIC in Independent Media as at August 2013.

2. PIC's loan claims against Independent Media to be settled at amortised carrying value as at 31st December 2017.
3. PIC's preference shares in Independent Media to be settled at amortised carrying value as at 31 December 2017.
4. PIC's loans claims against SIM to be settled at amortised carrying value as at 31 December 2017.
5. The offer should be separate from the offer to acquire a stake Sagarmatha and the PIC's acceptance to exit its investment in INMSA and SIM should not be conditional upon the PIC's participation in the listing of Sagarmatha and;
10
6. There should be compliance with all relevant company agreements prior to the implementation of the transaction."

Paragraph 3 reads as follows:

"The PIC should be provided with the information pertaining to how SIM would fund the proposed offer. The PIC's approval of the offer is subject to negotiation and execution of all the requisite transaction documents for a transaction of this nature in a form and substance satisfactory to the PIC."

20 Paragraph 4:

"Kindly note that this letter does not in itself constitute a contract and is only intended to inform you of the status of the application."

Paragraph 5:

"If you require further information please do not hesitate to

contact Mr Mervin Muller at 012 7423400 or Mervin.muller@pic.gov.za or Riadezwe Nozi on 012 7423506 or riadezwe.nozi@pic.gov.za.”

And the letter is signed by Mr Muller.

CHAIRPERSON: So sorry what did you say to which statement is that letter a copy?

ADV ISAAC MONNAHELA: It’s annexure D to Mr Ndadza’s statement.

ADV ALEXANDER ROELOFSE: We don’t have a copy of that annexure Mr Commissioner.

10 **CHAIRPERSON:** Do you have a copy for the other side?

ADV ISAAC MONNAHELA: I will e-mail the letter to the secretariat for them to make copies Mr Commissioner.

CHAIRPERSON: But isn’t one of our officials here who can be sent to go and make copies? Alright are you able to proceed in the meantime?

ADV ISAAC MONNAHELA: Yes Mr Commissioner. I don’t know if ... (intervention)

MS GILL MARCUS: Sorry, sorry Mr Monnahela just for clarity because this is now two documents that we’ve got that relate to what would have been DD60 is that correct? The one is the one you’ve just distributed
20 to us and the one that was in the file that we received from Dr Matjila?

ADV ISAAC MONNAHELA: Yes.

MS GILL MARCUS: So the one that is DD60 in the file what is the status of that document vis-à-vis the one you’ve just read?

ADV ISAAC MONNAHELA: I saw the document for the first time today because I didn’t have that annexure, I’m not even sure because the

one, the annexure DD60 that I saw is not signed.

CHAIRPERSON: Ja but it hasn't come up yet has it, it's still coming up?

ADV ISAAC MONNAHELA: No he has already dealt with it at paragraph 407 of the statement.

MS GILL MARCUS: Sorry then perhaps through you Mr Monnahela perhaps Dr Matjila's team can just tell us the status of DD60 as its unsigned and how it relates to this paragraph 407?

DR DANIEL MATJILA: Okay Commissioner we presented this because
10 I thought there would be another copy, signed copy of that, this DD60 you know capturing the approval of the committee.

CHAIRPERSON: Yes you say in the statement this approval was reduced to an agreement signed by me on behalf of PIC and then you refer to DD60.

DR DANIEL MATJILA: Yes I mean we could only get an unsigned copy.

CHAIRPERSON: I suppose the copy is not signed, the copy that you could get is unsigned but you say you did sign ... (intervention)

DR DANIEL MATJILA: I remember signing such because in this, this is just part of the negotiation around Sagarmatha, you can see this one
20 starts in 2017 but it's undergoing several alteration and back and forth to a point where we eventually don't have a deal because Sagarmatha is not listed but there is lots of negotiations, portfolio committee, some are referred to the FIP if the approval is within their delegated authority or back to the PIC, back and forth in that way you know until you know we see Sagarmatha could not list.

CHAIRPERSON: The document that has now been given to us, the sale of shares and so on that one you remember signing?

DR DANIEL MATJILA: I remember this and what I was trying to do is the motivation around signing because this I remember would have been discussed at the PMC and agreed that if this is the nature of the exit we will do it but the company must list, this is subject to the listing, you know that's why I understood it, it's we're not doing sales and claim on a company that does not exist because even the share price is being mentioned here that it will list at about R39,00. But listing within
10 the PIC don't move from, in other words we can't convert a company from unlisted to listed and simply pass it on to the listed team, there has to be concurrence that's why there is this proposal which is subject to listing and the satisfactory, to the satisfaction of the listing team they will do their own independent work which they did. If there's no agreement on the price this falls away you know because the listing doesn't happen so that's the nature of the negotiations around the exit of Independent News Media.

CHAIRPERSON: When you say this one falls away you mean the ... (intervention)

20 **DR DANIEL MATJILA:** This one that ... (intervention)

CHAIRPERSON: Prepared by TGR?

DR DANIEL MATJILA: Absolutely it falls away because this is the exit for the unlisted team, I think this is something the Commission has to look at as well, the operation, how the unlisted team and the listed team operates you know because they may have conflicting interests at

some point but for the same client. The unlisted team wants to sell at the highest price normally, everyone wants to buy, I mean sell at the highest price. The listed team if there is a price it has to be the lowest possible or something that the price that is acceptable to them in other words. So that's always what needs to be balanced.

CHAIRPERSON: Mr Monnahela will take that further. In the meantime can we give this document, this later document a reference, can we put it as DD60.1?

ADV ISAAC MONNAHELA: Yes Mr Commissioner.

10 **CHAIRPERSON:** Right it's DD60.1. You may carry on then.

ADV ISAAC MONNAHELA: Yes Dr Matjila you said Mr Mervin Muller would have advised you on that agreement?

DR DANIEL MATJILA: Ja the team would have advised me on this agreement.

ADV ISAAC MONNAHELA: Now the question that I have is if he had done so why would he then write a letter to Dr Survé and stating the conditions that were proposed by the PEPSS FIP?

DR DANIEL MATJILA: Commissioner as I said there are several alterations to this there have been other meetings that are not captured
20 and negotiations around trying to exit this. This is as well obviously was not accepted eventually and it fell away because the next committee said we can understand this the IC said but let them rather pay us cash for all the loans and claims that's what eventually was put on the table as I explained here. So this is still part of negotiation, it's not a final document that binds the PIC in other form or otherwise.

ADV ISAAC MONNAHELA: No but the PEPSS FIP had made a resolution, Mr Muller was merely carrying out or communicating what the PEPSS FIP resolution was.

DR DANIEL MATJILA: He did that I accept Commissioner and subsequently the same committee said the listed team must be tested and IC must be tested for appetite which is another stab, that's why I'm staying this was not final because this is the FIP that says we can do this as a FIP and you can write and communicate the decision of the FIP but the FIP at the same time is referring to the transaction to the IC
10 to say test appetite and because this is now the unlisted team the listed team as well has to kick in to assess if this will work for them. So there's another stage, this is not final as I have explained here, there has been several stages to a point where eventually there was no deal because certain conditions were not.

ADV ISAAC MONNAHELA: But Dr Matjila the contents of that letter relates to the PIC's exit from Independent Media which was an unlisted company do you agree?

DR DANIEL MATJILA: I agree.

ADV ISAAC MONNAHELA: So the listed investments team were going
20 to deal with the proposed investment in Sagarmatha which was going to be listed.

DR DANIEL MATJILA: Yes.

ADV ISAAC MONNAHELA: Those are two different things.

DR DANIEL MATJILA: Commissioner these are not two different things, the exit here is a listing of a company called Sagarmatha and

this is the values that the PIC said they are prepared to convert at if there is such a listing in essence.

MS GILL MARCUS: Sorry I just want clarity, I didn't understand that to be the case. If I look at the resolution it says, and the letter reiterates that, it tells you all of how to do it, the offer should be separate from any offer to acquire a stake in Sagarmatha and the PIC's acceptance to accept its investment in INMSA and SIM should not be conditional upon the PIC's participation in the listing of Sagarmatha. So there were two distinct questions here, this was the offer of coming out of Independent
10 Media at whatever which from your statement linked the two that it was you were going to go into Sagarmatha and in essence as Mister, we'll come back to that just now, I'll come back to that just now, but in essence there were two distinct questions this is how we could come out of Independent Media commitments and this is what would happen but it cannot be linked to the Sagarmatha listing is the decision. Whether or not then there's a Sagarmatha listing it says that should then be submitted in and of its own right for consideration and see if there's a PIC investment, if there's a PIC appetite. So the way I would understand it is that if Sekunjalo then felt that the two were intertwined
20 then it should reply and say with these preconditions then the Independent Media offer falls away because it's dependent upon Sagarmatha. That's the way I would have read the document so far. The two are interconnected in Sekunjalo's approach. The PIC's decision was they should not be connected and therefore if there's an offer to Independent Media it's got to stand alone and if there's a

Sagarmatha listing it's got to come and be presented to see if there's a PIC appetite. That's my understanding of the deal.

DR DANIEL MATJILA: I think Commissioner you're right, I think this is always a challenge of receiving documents you know at short notice here, I don't know we implore the team here to provide us with information so our responses are a lot more coherent and we don't waste time of the Commission here. But the Commissioner is right because this PEPSS is saying that we are fine we can accept the proposal of settlement provided that it's not linked so they need cash, it
10 must be separated and at the same time they say go and test, let the other team do its work and most importantly also IC to test appetite, I think that was part of the decision here. So Mervin Muller was simply saying we met, the committee met we know we have this document here which we said if you list we'll consider that but the committee is saying a different thing, it says these two matters must be separate, listing and settlement must be separated and this is the letter. But at the same time that FIP on that day said IC must have a look at this to test appetite and also the listed team must do their own work independently.

MS GILL MARCUS: They didn't quite say that, they said according to
20 the resolution 8226 in the event that the Sagarmatha listing occurs, in the event that it occurs, this is your DD59, it's your DD59 paragraph 822.6 in the event that the Sagarmatha listing occurs the transaction team should then present the transaction to the investment committee to test the PIC's appetite. That's different from saying it must come back to that. It's saying if the listing occurs you can come back. So

it's slightly different from there and obviously I'm reading from the text which you didn't have in front of you but it is there. So I think just for the clarity Mr Monnahela these are two very distinctly different if you like preconditions.

ADV ISAAC MONNAHELA: Yes.

MS GILL MARCUS: They are not linked.

ADV ISAAC MONNAHELA: Not at all.

MS GILL MARCUS: The PIC is very clear that Independent Media needs to be settled and Sagarmatha should it list can come back for
10 consideration.

ADV ISAAC MONNAHELA: And the PEPSS FIP made it clear that if one has to go through the PEPSS FIP resolution it's clear from that resolution that they required SIM to pay cash. Dr Matjila I will like to go back to the question that I asked you earlier, what was the basis for you signing this agreement, the sale of shares and claim agreement on the 13th December 2017?

DR DANIEL MATJILA: There was a proposal to convert our shares into Sagarmatha shares to be listed at some point, this is the essence of the agreement.

20 **ADV ISAAC MONNAHELA:** And you agree with that on the 6th December 2017 the PEPSS FIP decided that the PIC's exit should be separate from the offer to acquire a stake in Sagarmatha and that the PIC accepts terms to exit its investment in Independent Media South Africa and Sekunjalo Independent Media should not be conditional upon the PIC's participation in the listing of Sagarmatha?

DR DANIEL MATJILA: That's correct.

ADV ISAAC MONNAHELA: Are you then saying that there were two contrary or the proposal that was made later was contrary to the decision or resolution that had been taken by the PEPSS FIP?

DR DANIEL MATJILA: Yes because the FIP felt that there has to be settlement in cash and the two separated.

ADV ISAAC MONNAHELA: Who made the proposal that you refer to?

DR DANIEL MATJILA: Who made the proposal to who?

ADV ISAAC MONNAHELA: You said there was a proposal after the
10 PEPSS FIP resolution, who did the proposal come from?

DR DANIEL MATJILA: Which PEPSS resolution are talking about, this?
Sorry Commissioner, apologies.

ADV ISAAC MONNAHELA: I'm referring to the PEPSS FIP resolution of 6 December 2017 which made it clear that the PIC's exit from Independent Media should not be subject to the PIC subscribing for shares in Sagarmatha.

DR DANIEL MATJILA: I don't understand the question Commissioner.

ADV ISAAC MONNAHELA: Dr Matjila I asked you a question what was the basis for you signing that agreement and you referred to a
20 proposal.

DR DANIEL MATJILA: This agreement was signed on the 14th December 2017.

ADV ISAAC MONNAHELA: You signed it on the 13th.

DR DANIEL MATJILA: The 13th December 2017.

ADV ISAAC MONNAHELA: Yes and it made it clear that the PIC's exit

from Independent Media should not be subject to the PIC subscribing for shares in Sagarmatha, do you agree.

DR DANIEL MATJILA: I don't understand Commissioner I'll have to look at this, again I'm extremely uncomfortable responding to things that I see now I need to gather more information as to why this was signed, what is the rationale so that I can be able to explain properly. At this stage we're ... (intervention)

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

DR DANIEL MATJILA: We're working with dates only but there may be
10 information in between that led to this.

MS GILL MARCUS: I think that would be very helpful because we're really dealing with three attachments if I'm correct and Mr Monnahela you'll help us it's DD59 which is the resolutions taken by the FIP by the committee on the 6th December.

ADV ISAAC MONNAHELA: Yes.

MS GILL MARCUS: Then there is the signing of this agreement with Sagarmatha which contradicts the decisions or the resolutions of that DD59.

ADV ISAAC MONNAHELA: Yes.

20 **MS GILL MARCUS:** And that, because that's signed with Sagarmatha when there was the agreement that it should not be linked.

ADV ISAAC MONNAHELA: Yes.

MS GILL MARCUS: And then there is what was the original DD60 which is as you've said earlier maybe you've got a signed copy this one was unsigned, of the work in progress. So I think if you needed to look

at that Dr Matjila and Adv Monnahela it's those three documents that we need clarity on what happened there.

ADV ISAAC MONNAHELA: Yes and I have a problem with Dr Matjila saying that he doesn't understand the question. The PEPSS FIP resolution is attached to his own statement and I'm saying to him that the PEPSS FIP had taken a resolution that the PIC's exit from Independent Media should not be subject to the PIC subscribing for shares in Sagarmatha.

MS GILL MARCUS: Sorry if I can understand you properly Adv Monnahela the resolution says you can't and the document you've just
10 circulated to all of us DD60.1 shows a signing with Sagarmatha as part of the deal?

ADV ISAAC MONNAHELA: And although it purports to be a sale of shares and claims agreement it's in fact a share swap agreement. My question to Dr Matjila is what was the basis for him signing the agreement I believe that, and he referred to a proposal that there was a proposal, my question is who did the proposal come from?

ADV ALEXANDER ROELOFSE: Mr Commissioner can I just interject at this point in time, I think that Dr Matjila in all fairness has only just
20 been given this documentation he's indicated that he's not in a position to deal with it because it was only given at short notice and what has happened is that he's said that he needs to think about these events and reconcile them in his mind as to how this particular document came to be signed. And I must also just place it on record Commissioners that it's only under certain special circumstances that a witness can be

cross-examined and my learned friend's questioning is bordering very close on cross-examination of Dr Matjila especially when he suggests to Dr Matjila that he's being untruthful with the Commission as he has. So unless there's going to be an application by the evidence leader for the cross-examination of Dr Matjila our position is that the questioning needs to be a lot less robust than what it is at this point in time.

CHAIRPERSON: You, you all right let me hear what Mr Monnahela has to say.

ADV ISAAC MONNAHELA: Mr Commissioner I was just, I am just here
10 to, as the evidence leader to establish the truth and I do not know why my learned friend says I am suggesting that Doctor Matjila is untruthful but I am willing to give Doctor Matjila an opportunity to go through the agreement and we can go back to deal with the agreement tomorrow.

CHAIRPERSON: That is fine but I just want to say you must be maybe a little softer not in terms of your voice but avoid the appearance of cross-examination of the witness. Now I am not sure what is going to happen now with regard to what Mr Roelofse said about Doctor Matjila wanting to have a look at the documents that were made available that have just been made available to him. Do you not think it is only fair
20 that he has time to study the document and ...[intervenes]

ADV ISAAC MONNAHELA: Yes Mr Commissioner in fact I said that we can go back to the agreement tomorrow. We can deal with it tomorrow and Mr Commissioner my colleague has just referred me to, to the rules of this Commission, Rule 3.2 which reads as follows;

'A member of the Commission's legal team may put

questions to a witness whose evidence is presented to the Commission by the Commission's legal team including questions aimed at assisting the Commission in assessing the truthfulness of the evidence of a witness subject to the directions of the Chairperson the Commissioner's legal team may ask leading questions'.

CHAIRPERSON: Does that help you?

ADV ISAAC MONNAHELA: It does Mr Commissioner.

10 **CHAIRPERSON**: Ja but it says nothing about cross-examination. All I am saying is that tone down so that it is not suggested that you are now cross-examining the witness.

ADV ISAAC MONNAHELA: I ...[intervenes]

CHAIRPERSON: Sure you are here to help tracing the truth before this Commission but there is a little difference between that and then cross-examining your witness. That is what the complaint is about.

ADV ISAAC MONNAHELA: Yes Mr Commissioner maybe it is because of, maybe he said that because I am not soft like the Commissioner said I should be soft.

20 **CHAIRPERSON**: Yes. All right I have made a point that make sure that you do not sort of go over to cross-examining the witness. What is the position now with regard, will you go onto something else and then come back to, to the question of this, of these documents and their contradictory nature?

ADV ISAAC MONNAHELA: Yes Mr Commissioner. Doctor Matjila may

we go to ...[intervenes]

CHAIRPERSON: Can we just make a copy of this letter of 26 January 2018 DD60.2?

ADV ISAAC MONNAHELA: Yes Mr Commissioner.

CHAIRPERSON: DD60.2.

ADV JANNIE LUBBE SC: Can I just interrupt here with my cracked voice Mr Commissioner, and I am not trying to assist my junior Mr Monnahela, he is big enough to do it, but I just want to place it on record that all documentation was available for Doctor Matjila and his
10 legal team because these witnesses where these documentation come from they have testified, and Doctor Matjila was requested coming here to deal specifically with these investments, but I am not also criticising Doctor Matjila but I just want to place on record that from the legal team's prospective we have given our full co-operation to assist Doctor Matjila to come prepared to the Commission.

CHAIRPERSON: I accept that. It might just be a question of not knowing which documents are going to be used.

ADV JANNIE LUBBE SC: Absolutely fair enough and we have no objection to Doctor Matjila having an opportunity and his counsel to
20 have a look at it.

ADV ALEXANDER ROELOFSE: That is precisely the point Mr Commissioner there are hundreds of documents that are sometimes available concerning a particular transaction. It is very difficult for Doctor Matjila to spot which ones the evidence leaders are going to use in order to ask him questions about.

CHAIRPERSON: Understood.

ADV ISAAC MONNAHELA: Thank you Mr Commissioner I thought that Doctor Matjila was aware of - from Mr Madadza's evidence before this Commission, but I am not trying to justify us not giving him the document.

ADV ALEXANDER ROELOFSE: I think Commissioner ...[intervenes]

CHAIRPERSON: I am not saying he was not aware of Madadza's evidence, it is just a matter of which documents are going to be used at what stage of you know the evidence to be heard. .

10 **DR DANIEL MATJILA:** Commissioner we actually requested annexures to statements that implicate me from the commission. We did ask for that. We did not receive this one and others that have been produced at short notice in this commission.

CHAIRPERSON: Anyway that is fine, but suffice to say that statements are also available on the website of the commissions are there, statements are available. But let us not debate that, let us leave it there.

DR DANIEL MATJILA: The problem was the annexures Commissioner. You are a hundred percent correct but the annexures are missing.

20 Thanks.

ADV ISAAC MONNAHELA: Thank you Mr Commissioner. Doctor Matjila may I just ask you a question on the issue of transaction fees. You said, you say in paragraph 393.1 of your statement and that is the PMC unlisted you say they had completed necessary due diligence and resolved the recommended transaction to the IEC as follows;

“393.1 an irrevocable approval to invest 2 billion Rand plus 40 million rand towards due diligence cost and adversary fees and for the purchase on one hundred percent of IMSA”.

Were the transaction cost or fees approved by the PIC?

DR DANIEL MATJILA: As far as I can remember this was the proposal. The final proposal, I cannot remember because it was a lesser amount, I am sure the, the team or the PIC can give us the break-down of the final transaction value as well as related fees to that.

10 I do not have information around the fees. As I have explained I do not get into that detail in terms of fees and so on.

ADV ISAAC MONNAHELA: Okay now we know and Mr Benedict Mongalo testified before this Commission that Independent News and Media South Africa was struggling and you said something about, it being in the Sunset Industry, and the GEPIF was not comfortable with investment in the company. Why did the PIC invest in the company despite the fact that there were problems?

DR DANIEL MATJILA: Commissioner this transaction went through investment committee where it started with PMC Investment Committee
20 and the Board of the PIC which eventually approved it, and for various reasons that we have given from mandate feed, that is so. It is impacting the economy, the transformation imperative that this transaction is driving and they were clear upfront that it hence may not be good financial returns but they will meet the mandate, the most important one is the impact on the economy on which the bigger

portfolio depended. That was the motivation for an approval.

ADV ISAAC MONNAHELA: Mr Commissioner I have no further questions on Independent Media subject to the arrangement that we will return to the agreement tomorrow.

CHAIRPERSON: Yes noted.

MS GILL MARCUS: Doctor Matjila what we are going to then is to deal with Independent Media up to points where we are now dealing with the different documents and the agreements okay. So we are going to go back and ask some questions around that. Is that okay?

10 **DR DANIEL MATJILA:** Okay.

MS GILL MARCUS: If we go back to the beginning, I would start with, with this question that when, on 394.3 the Independent, the Investment Committee asked for personal sureties, personal sureties provided by the key sponsor. Whose personal surety was that that was that was given 394.3?

DR DANIEL MATJILA: That will be Doctor Iqbal Survé..

MS GILL MARCUS: So he would have given personal surety for half a billion rand?

20 **DR DANIEL MATJILA:** I do not know what the final figure was but there was, there was such a, I think he put forward a balance sheet, but it would be again we will have to check the details because there was a negotiation but I think he put forward the balance sheet to the extent of 150 million.

MS GILL MARCUS: But that would have been personal surety not any company.

DR DANIEL MATJILA: I think it was finally a company. I am not quite sure about that.

MS GILL MARCUS: Can we check because personal surety I would have read as being an individual, not a company. Perhaps you could advise us Advocate Lubbe whether could be a company that stood surety which he signed for.

ADV JANNIE LUBBE SC: It is noted.

MS GILL MARCUS: Okay. And that then we look at 295 and 296 and again I am looking at the comments that have been made during your
10 testimony about listening and hearing your advisors and people's comments. If you looked at it, the GPF expressed discomfort with the exposure, even though it was within the limits prescribed in terms of PPM. Their view was the PIC can make a decision as long as the exposed does not exceed the 2 billion but they expressed their discomfort. If you take the Board meeting it equally did not support the proposal and asked the transaction team should pursue a revised proposal based on lower price, a possible investment. And then if you looked at its agreement on the 11th March 2013 they approved a maximum of 1.44 billion investment into Independent Media but they set
20 out fairly stringent conditionalities in relation to that. And I was not sure what was meant by 397.3 what it would be intended as well as other stepping rights to be negotiated. Were those other stepping rights negotiated and finalised?

DR DANIEL MATJILA: That this would form part of the legal agreement, it would be captured in ...[intervenes]

MS GILL MARCUS: So it would be captured in that and it was done.?

DR DANIEL MATJILA: Ja I think so.

MS GILL MARCUS: Because the question I am asking you, given that it is an advice from Mr Mongalo as your team saying look this is a risk investment. Your Board saying, we are concerned, we are discomforted by it. We are putting conditions. The GPEF equally expressing discomfort. The fact that, I know it is now after the fact, but after the fact this loan has never been serviced.

DR DANIEL MATJILA: Ja.

10 **MS GILL MARCUS:** But given all of the concerns there and the fact that the loan has never been serviced how do you think about it in sense of saying should have listened more carefully? Because this is an investment and again I would link it to a point you make about, there are two points. One in 400, where you say;

‘Was looking for investment partners [you] I [and I am quoting here] I was concerned with the idea of possibly assisting or allowing the Gupta’s to boost their propaganda machinery by taking a shareholding in Independent Media’.

And then your comment in 401;

20 ‘It is contributing to democracy by keeping the citizen informed as expected from a media company’.

What was your thinking in both concerns expressed by those advising you and taking decisions and the point about taking a stake in media, because if we wanted keep concern, why only Independent Media. Why not a whole lot of other media houses to ensure that they were all in

difficulty as you have pointed out, to ensure that they would all be sustainable to provide the information to the South-African Citizenry. You focused on one, Independent Media House.

DR DANIEL MATJILA: Commissioner what is very important to understand here, is that we taking transaction to committees that can approve, and the committee can say no and the committee can say go ahead and do this thing provided you achieved this and this. It cannot look I decided to go and do the transaction on my own. There is a committee. So there is a committee that is supposed to take collective
10 responsibility for this transaction and not then Matjila alone. I think that needs to be understood that way. This is the decision of the Board.

MS GILL MARCUS: The question is, accepting, what I am raising is whether it is you in your different role CIO at that time, I am assuming you were still the CIO at that time, not the CEO in 2012, 2013 ...[intervenes]

DR DANIEL MATJILA: I was the CIO ...[intervenes]

MS GILL MARCUS: And therefore you play a key role in that recommendation as the Chief Investment Officer. What I am asking is,
20 that given the responses to you, did you not look at it and say okay if we look at media maybe we need a broader investment in media, we are concerned that media is in, as, as, in risk situation across the board as you have pointed out, and there are people looking at propaganda *etcetera*. I understand what you are raising about committees. But as a Chief Investment Officer you have a particular

role and responsibility, within those committees and within your relations to the Board *etcetera*. So what I am asking is that did you reconsider this, and then if you say in 402;

‘The Independent Media has not being able to meet to his obligations to a tough operating environment’.

You knew that from the outset? You knew from the outset this was a difficult circumstance for media.

DR DANIEL MATJILA: Ja. Commissioner again it is the nature of the investment. It is a guessing game. You may guess quite well and indeed be proven right, you may be wrong you know, so that is, that is 10 the nature of investments. We would not know, today we may look like we, we, would have known that things are not going to work out, but based on probabilities and develop proposition that was put forward to us at that time based on the digital strategy that was put in front of us at that time, because we did not say Print Media is a dying media we understand that, but what are mitigants against that? And a comprehensive digital structure was put forward to mitigate that over time, and we bought into that strategy coupled with transformation and others, and the Board agreed with that. Despite reservation they 20 approved the transaction on that basis, so, so I am again reluctant to take, you know full responsibility when there was a committee that dealt with this thing, and never raised, although they raised question they were happy for the transaction to go through. It was in their right to say do not do the transaction, and that is it. We would not have done the transaction.

MS GILL MARCUS: I am going to come back to something you said the other day which was that, the Board has never rejected a recommendation from the Investment Committee. So they may have the right but they obviously defer to the Investment Committee but in 402;

‘Independent Media had not been able to meet its obligations due to a tough operating environment’.

Are you condoning their non-payment, have you taken measures for them to service this debt?

DR DANIEL MATJILA: We have including the restructuring that is in
10 place. It was part of an attempt to deal with the problem. I mean companies do restructure their balance sheet or move into other areas of business that they believe they can add more value, and their proposal was about that. Inability there was no cash clearly for us, for them to settle their obligations and you can even see in the final proposal that was accepted that the Committee was saying well there is no chance that we will get full money back, but let them pay a certain amount to show that there is commitment towards settlements of this loans and obligations.

MS GILL MARCUS: If you looked at Mr Molebatse’s statement he said
20 before the Commission that one of the issues that he had was that, and he is relating back Sagamartha issue that some of the cash raised from the IPO of Sagamartha, is it Sagamartha, yes I think it is Sagamartha would be used to in essence buy Independent Media shares from the PIC and the way he put it, it effect this would mean that the exit from the PIC from Independent Media would be funded by the PIC and it was

one of the concerns that was raised. Is that something that you understood from the agreements and the approvals that this is what would happen?

DR DANIEL MATJILA: Ja. I think it is, it is, there are two stages here, first the transaction was to convert loans and claims only in Independent News Media convert into, the whole consideration, I think it was about 1.5 billion that they were looking at into a new listing. And the IC said we do not want to see that, I think this must be separate, the two things must be completely separated and the proposal was that
10 Independent News Media should settle all their loans and obligation in cash and Sagamartha be looked at independently. And I think that is what happened ultimately.

MS GILL MARCUS: The essence of it is, is that there is still being no servicing of the Independent Media's debt to the PIC.

DR DANIEL MATJILA: When I left they had not paid, they
...[intervenes]

MS GILL MARCUS: They had not paid and still have not paid
...[intervenes]

DR DANIEL MATJILA: There was a proposal on the table and
20 ...[intervenes]

MS GILL MARCUS: Ja ...[intervenes]

DR DANIEL MATJILA: We even wrote a default letter. I did sign it
...[intervenes]

MS GILL MARCUS: I have seen that letter. You have sent them a default letter. But the question for them is, does this just then at the

end of 2018 when you left, does this simply continue? 2013 to 2018 five years of non-service, yet you have engaged with other entities and worked with other entities with the same group. Was there not a question that says, if we are going to that this has to be settled. It is not a small amount 888 million rand.

DR DANIEL MATJILA: It is not a small amount we accept that, but we are dealing here with two transactions that are different. One is subscribing ...[intervenes]

MS GILL MARCUS: Four transactions ...[intervenes]

10 **DR DANIEL MATJILA**: Into, into ...[intervenes]

MS GILL MARCUS: Four transactions. Premier Fishing, IO, Sagamartha and Independent Media.

DR DANIEL MATJILA: Yes, ja the same group. I agree with that.

MS GILL MARCUS: This is as far as I can go at the moment. Thanks.

ADV ISAAC MONNAHELA: I have got a couple of questions here. Paragraph 401, 401. I just want to check, just in terms, I mean, we know that the media, especially the print media has suffered quite a lot in the last couple of years, if you know the weakness of this group *versus* Tiso Blackstar and Caxton, which one has fallen the most broadly? Do you know? Can you remember? When you compare those three groups?

DR DANIEL MATJILA: I, it is quite difficult because ...[intervenes]

ADV ISAAC MONNAHELA: Being the ...[intervenes]

DR DANIEL MATJILA: Independent ...[intervenes]

ADV ISAAC MONNAHELA: Independent unlisted. Independent is

unlisted you know, so but for, for all intense and purposes if you had to do an analysis of the, the company, the value you may say that the equity there is fully impaired.

DR DANIEL MATJILA: Yes.

ADV ISAAC MONNAHELA: *Versus* here where there is still a 72 percent, ah 13 percent in other words in Tiso Blackstar if you think of it, there is still 13 percent that is left ...[intervenes]

DR DANIEL MATJILA: It is still there ...[intervenes]

ADV ISAAC MONNAHELA: Ja still there, the other one is half and so
10 on and so forth ja, so they are in different you stages. I would say Independent News Media probably has been hit the hardest.

DR DANIEL MATJILA: The hardest yes.

ADV ISAAC MONNAHELA: Then, then coming to the point then that would you then say maybe you know the turnaround plan did not work as well as it was you know, thought of or proposed.

DR DANIEL MATJILA: In other words ...[intervenes]

ADV ISAAC MONNAHELA: The industry has fallen this part, but the, the paper has fallen far more.

DR DANIEL MATJILA: Ja I think here it is more to do with the focus of
20 the strategy because the value proposition at that time was to drive digital media quite aggressively you know, but it needed money to do that, it needed cash to drive that strategy, and I do not think they had enough capital because then all of a sudden the environment was such that they needed to inject more work in capital into maintaining the Independent News Media, the print side, you know spending a lot of

money instead of putting a lot more into digital and therefore growing or quickly transitioning into a new platform. I think they were slow in moving looking into that.

ADV ISAAC MONNAHELA: Yes but when the PIC put money there, didn't the PIC not know that they might require further capital?

DR DANIEL MATJILA: Not at that point.

ADV ISAAC MONNAHELA: At that point.

DR DANIEL MATJILA: Not at that point. Remember the biggest hit here which we do not get into detail is the Government business that
10 simply dried up in some of this companies, I think even Tiso Black Star was hit very hard once it appears, the New Age you know got unfair advantage in in Government business and most of these papers that depended on Government suffered quite severely.

ADV ISAAC MONNAHELA: Okay so you do not think that maybe the problems came because of other things besides the Industry and maybe the Government business drying up, say the management of the newspaper?

DR DANIEL MATJILA: I do not think there was necessarily a problem with management, I think what dried up was the actual revenues that
20 were coming out of what Government advertised in areas which would have given them the right kind of cash flow profile to able to dry that digital strategy you know. You know so ...[intervenes]

ADV ISAAC MONNAHELA: Ja, so in summary then what could you say what went wrong with the PIC investment in this ...[intervenes]

DR DANIEL MATJILA: I would say, I would say by and large it is

dependence or Government, on Government because the idea was to transform Independent News Media into a black owned transform company and therefore stand, stood a much stronger chance to get more Government business in that way you know.

ADV ISAAC MONNAHELA: Ja. ja.

DR DANIEL MATJILA: But then there was this new one that got formed and probably because of this other dispute all the business was taken away and it suffocated in a way.

ADV ISAAC MONNAHELA: Okay so the biggest part of their plan was
10 to get more Government business.

DR DANIEL MATJILA: Because it was now the most transformed organisation in the media industry at the time.

ADV ISAAC MONNAHELA: Yes. Okay. Alright. And then in 4.2, just in terms of the working capital you are saying that MMI, sorry SIH was supplying working capital. Is it not, you know some role of the shareholders to supply working capital? Not only one group? I mean if ...[intervenes]

DR DANIEL MATJILA: So, so ...[intervenes]

ADV ISAAC MONNAHELA: I mean if a company needs working capital
20 does it not go to a bank? If a bank cannot supply then their shoulders supply the working capital?

DR DANIEL MATJILA: That is correct. So, so we have not seen the rights issue from them or them requesting us, I mean requesting PIC for working capital. But they have, I mean Sekunjalo has kept the company running ...[intervenes]

ADV ISAAC MONNAHELA: Ja ...[intervenes]

DR DANIEL MATJILA: By spending its own money on it.

ADV ISAAC MONNAHELA: Yes it is quite strange because when I asked the question they did say that you know, but I was just wondering that why do you not do something about it? Like as you say Rights Issue or call in the shareholders to supply the capital?

DR DANIEL MATJILA: Ja.

ADV ISAAC MONNAHELA: Huh? I mean it is quite strange that one shareholder says they are carrying the burden of supplying the working
10 capital but I wonder whether they approached the PIC about this.

DR DANIEL MATJILA: They have highlighted that, but not formally. But even if they did, I do not know, I do not think it would have been supported. Really. It would be hard for PIC to put more money, mostly because of the media reports and the spotlight that this had created I don't think there will be a possibility of additional funding.

ADV ISAAC MONNAHELA: Yes, yes, whether its working capital or ...[intervenes]

DR DANIEL MATJILA: Or any other form, I don't believe that will be approved.

20 **ADV ISAAC MONNAHELA:** Ja, but then I mean what is next, I mean if the PIC doesn't want to support the company what happens, what's next? Well there's a default letter and all you know so I mean there's a you know there's a problem here which needs to be solved so how does it get solved properly.

DR DANIEL MATJILA: These discussions as we said happened you

know in 2017 already, around September anticipating this situation where they are able to pay and that's when they introduced this Sagamartha that it would be a solution because they are packaging a new platform, technology platform which will allow the PIC a conversion into a new entity in the listed space with probably better prospects of success because it's expendables (indistinct) the PIC a much better exposure to digital platform, that's the proposal around Sagamartha.

ADV ISAAC MONNAHELA: Yes, but that's gone now so what has got to, you know something has got to be done, you know probably soon
10 because this thing has been going on for a while.

DR DANIEL MATJILA: I assume the legal agreements in the PIC will some show that there are provisions as to how this can be remedied, or what sort of plan can be put in place, ja. I think the PIC will have to decide on what their options ...[intervenes]

ADV ISAAC MONNAHELA: The shareholders I think ...[intervenes]

DR DANIEL MATJILA: And the shareholders must weigh their options.

ADV ISAAC MONNAHELA: Mmm, mmm.

DR DANIEL MATJILA: Because you also have the Chinese that are in the same situation as the PIC, we are not alone there.

20 **ADV ISAAC MONNAHELA:** Ja, ja, okay.

DR DANIEL MATJILA: The PIC is not alone.

ADV ISAAC MONNAHELA: Ja, and the final question is on 401 again, just in terms of maybe the last sentence or the second one, social returns, I strongly believe that the investment facilitated transformation and localisation and then the next one it is contributing to democracy,

just expand on it please there. Just expand on that one.

DR DANIEL MATJILA: I think it's really very important, I mean media plays an important role in the economy.

ADV ISAAC MONNAHELA: Yes.

DR DANIEL MATJILA: You know we probably know the role in the economy you know what they report you know about events in the economy, you know talking about interest rates cuts or increases, inflation you know new jobs you know the Rand collapsing sometimes they do that, all of those are important for invest – I mean for
10 consumption you know and investments as well, you know so different role players will depend on media for information and therefore in economic decisions you know will inform, will be informed by information that comes out of media you know, and so the role that he plays it is critical, whether it is reporting on politics that have impact on the economy or pure economics you know to keep the nation informed of what is happening around them and therefore the nation making economic decisions with that information. All of those put together are driving economic activity.

ADV ISAAC MONNAHELA: Okay, ja. So you know some comment
20 there because some people say that paper you know they have changed much and you know the news are not independent and you know some like it because it has taken a different slant, some don't like the papers and all that, you know, what's your comment on that?

DR DANIEL MATJILA: Look I don't have a comment, but I expect them to play a role in the economy, there are other competing newspapers

that are writing there is you know other forms of media, Media 24 and many others, Digital Media all of them informing the nation in different. Some may inform the truth, some you know not necessarily and so all of those I mean – I mean newspapers are playing the role in other words, you know as long as they play their role I am sure there are checks and balances that are – you know the Ombudsmen that will also monitor the conducts if people have a problem with the biasness that it is reporting but the fact of the matter is it is there in the economy, it's playing a certain role in the economy and I think – and it is
10 transformed, I think that's the achievement that we can claim you know insofar as this is concerned.

ADV ISAAC MONNAHELA: Yes, and it has the chosen role it wants to play, is that what you are saying, the others are playing their roles and you are saying whatever they have chosen is what they have chosen?

DR DANIEL MATJILA: Ja.

ADV ISAAC MONNAHELA: Is that what you are saying?

DR DANIEL MATJILA: That's correct.

ADV ISAAC MONNAHELA: Okay. Alright, thank you very much.

MS GILL MARCUS: Given the points you have just made about the
20 importance, the critical importance of media and an informed citizenry did the PIC when considering this question of supporting independent media consider what your media support strategy would be, because the question for me is a wide range of views and informed citizenry coming from different angles is it something that you said we need to look at transformation in the media, we need to ensure that it is

relevant and therefore we will have this strategy across the Board who support media whether it is print media, digital media, social media, SABC, whatever, to ensure that there is an understanding from an informed citizenry, because the points you make are absolutely valid about an informed citizenry, the question I have is in that informed citizenry you have chosen one entity, one group to say that's where we're going to put our support and that is an investment opportunity, and everybody else was also in the same boat as you yourself have said, there was a serious hit on many of the news agencies and the

10 different media outlets. Did the PIC in considering this look at a communication, how to support an informed citizenry through the media or did it just look at the Sekunjalo Group Independent Media as that deal with perhaps an added voice, a sustained voice in that regard, because to me it's a really different question if we're saying we're supporting the need for democracy and an informed citizenry to supporting a particular group that is then not servicing its debt and that is condoned for five years, because it is having difficulties, they are all having difficulties.

DR DANIEL MATJILA: Commissioner first this is an investment and it

20 is in the media space, and it's not the only investment in the media space that we hold. We hold Naspers, we hold Tiso Blackstar.

MS GILL MARCUS: Sorry Naspers and Tiso would be listed?

DR DANIEL MATJILA: Would be listed, I don't think we necessarily differentiate, it remain an asset. It is unlisted, because we got it unlisted from the Irish, but it was about transformation and adding a

new player, black-controlled newspaper into the mix to try that democracy.

MS GILL MARCUS: Thank you.

ADV JANNIE LUBBE SC: Mr Commissioner if there is no more questions this is the business for the day.

CHAIRPERSON: Alright, let us adjourn until nine thirty tomorrow morning.

INQUIRY ADJOURNS TO 24 JULY 2019