

**COMMISSION OF INQUIRY OF THE PUBLIC INVESTMENT CORPORATION**

**HELD AT**

**TSHWANE, PRETORIA**

10

**29 JANUARY 2019**

**DAY 5**

20

**PROCEEDINGS HELD ON 29 JANUARY 2019**

**ADV JANNIE LUBBE SC:** Good morning Mr Commissioner, members. We are ready to proceed with our next witness, Dr Claudia Manning and she's ready to take the oath. Will you just stand up please.

**CHAIRPERSON:** Morning and your full names please?

**MS CLAUDIA MANNING:** Claudia Estelle Manning.

**CHAIRPERSON:** Estelle with two L's?

**MS CLAUDIA MANNING:** Yes.

**CHAIRPERSON:** Do you have any objection Ms Manning to taking the prescribed  
10 oath?

**MS CLAUDIA MANNING:** No.

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

**MS CLAUDIA MANNING:** I do.

**CHAIRPERSON:** Thank you.

**ADV JANNIE LUBBE SC:** You can sit down.

**MS CLAUDIA MANNING:** Thank you.

**ADV JANNIE LUBBE SC:** Dr Manning to start off is it correct that you were appointed  
20 to the Public Investment Corporation Board of Directors as a non-executive director on the 1<sup>st</sup> September 2015 by the then Minister of Finance Mr Nene?

**MS CLAUDIA MANNING:** It was the 1<sup>st</sup> December 2015.

**ADV JANNIE LUBBE SC:** Thank you.

**MS CLAUDIA MANNING:** And yes, that's correct.

**ADV JANNIE LUBBE SC:** And you served on the Board for a period of two years and

seven months until your resignation on the 22<sup>nd</sup> July 2018?

**MS CLAUDIA MANNING:** Correct.

**ADV JANNIE LUBBE SC:** Before we start with your evidence can you just inform the Commission who Claudia Manning is, where you studied, what you studied, your area of expertise please?

**MS CLAUDIA MANNING:** I studied, I grew up in Durban, I went to what was then known as the University of Natal Durban UND, I did a BA and an Honours Degree there. I then moved and spent some years in the UK. I studied at the University of Sussex where I obtained first a M Phil and then a Doctorate at the Institute of  
10 Development Studies. I started my career as a policy and researcher into the small business sector. Then I spent several years at the Development Bank of Southern Africa the DBSA working in project finance. I later co-founded and managed an investment holding company. Several years later I managed the South African arm of a global development implementation business called DAI. I've served on the boards of several companies listed and unlisted businesses and right now I'm employed by something called the SA SME Fund which is a company set up by South African corporates to promote growth in small businesses in South Africa.

**ADV JANNIE LUBBE SC:** Thank you. Can you then start with your formal evidence, you have prepared a, and I must apologise Mr Commissioner I should have asked my  
20 colleague Mr Husain who's with the witness here as a legal advisor, can you just introduce yourself Mr Husain?

**MR MOHAMED HUSAIN:** Thank you. Good morning Chairman and fellow commissioners. My name is Mohamed Husain from attorneys Knowles Husain Lindsay Inc in Sandton.

**ADV JANNIE LUBBE SC:** Thank you Mr Husain. I've agreed with my colleague Mr

Commissioner that I will lead the witness, thank you. Can you then proceed with your statement?

**MS CLAUDIA MANNING:** I was appointed to the PIC as a non-executive director on the 1<sup>st</sup> December 2015 by then Minister of Finance Mr Nene. I served on the Board for two years and seven months until I resigned on the 22<sup>nd</sup> July 2018. During that period there were three chairmen of the PIC all of them Deputy Ministers of Finance as had been the tradition in South Africa over the past two decades. The first was Mr Mcebisi Jonas who was Chairman at the time of my appointment. The second was Mr Sfiso Buthelezi who took over as chairman after President Zuma removed Mr Nene and Mr  
10 Jonas from their positions as Minister of Finance and Deputy Minister of Finance respectively. The third was Mr Mondli Gungubele who remains Chairman at the present time.

Whilst the PIC has consistently received a high-degree of public attention this escalated to a new level during the period September 2017 till early 2018 when allegations of impropriety and corruption were levelled against the Chief Executive Officer and the Chief Financial Officer. The allegations were wide-ranging in nature. The main allegation centred around a corrupt relationship between the CEO and a woman accused of being his girlfriend. The CEO was accused of contravening PIC policies and procedures by providing a loan and a grant to a company in which his  
20 girlfriend was a director and shareholder as well as of instructing a PIC funded company to settle some of her debts.

Further allegations were made about favouritism shown by the CEO and CFO towards certain staff, victimisation of other staff, improper awarding of bonuses and a raft of other allegations.

**ADV JANNIE LUBBE SC:** If I can just interrupt you there, you had sight of the terms

of reference of this Commission?

**MS CLAUDIA MANNING:** Yes.

**ADV JANNIE LUBBE SC:** Some of these matters you've now raised fall directly into the terms of reference and when we deal with that I will also refer you and the Commission to the applicable term.

**MS CLAUDIA MANNING:** Okay.

**ADV JANNIE LUBBE SC:** Thank you.

**MS CLAUDIA MANNING:** These allegations and the manner in which the Board dealt with them have become the subject of widespread public and media commentary over  
10 the past year. The public discourse has ranged from accusations that the Board ignored and/or tried to cover-up the CEO's corruption to assertions that the CEO was targeted by certain elements in higher office intent on looting the PIC who wanted him removed so that he could be replaced by a more pliant CEO. These are my views of what transpired between that period between September 2017 and July 2018 when I resigned from the Board.

In September 2017 members of the Board were sent a series of e-mails from somebody calling himself James Nogu with allegations about the CEO violating PIC policies by providing funding to his girlfriend who was part of a company called MST. The e-mails included internal PIC documents showing the details of this transaction. A  
20 few days later management provided the Board with a detailed written response to the allegation of corruption in the MST transaction and included copies of transaction documents showing the process through which the transaction had been approved.

A Special Board Meeting was held on the 15<sup>th</sup> September 2017. The context in which the Board met to deliberate this matter is important. The allegations had been leaked to the media one or two days before the Board Meeting and a narrative emerged

which suggested that the attack on the PIC CEO was the latest in the State Capture efforts and that certain political elements were trying to remove the CEO from the PIC and replace him with someone who would be more pliant. The Board Meeting of the 15<sup>th</sup> September 2017 took place over nearly six hours and it became very clear to me within a few minutes of the start of the meeting that there very divergent views on how to deal with the allegations.

I, along with many other directors, took the view that the CEO should be provided an opportunity to respond to the allegations and then recused so that the Board could consider his response and determine whether his explanations were  
10 satisfactory or whether further investigation was needed. In my opinion this decision could only be made once the CEO was asked to answer the allegations. The other view argued was that the Board should not permit the CEO to offer any explanation to the meeting as this would compromise the investigation into the matter and that the Board should rather commission an external independent investigation into the matter.

The matter was debated at length and at a certain point the Board decided to commission an investigation by the Head of Internal Audit. The CEO and CFO were finally called ... (intervention)

**ADV JANNIE LUBBE SC:** I'm sorry to interrupt you there, that decision to commission an investigation by the Head of Internal Audit was that a unanimous decision?

20 **MS CLAUDIA MANNING:** It was, at that point the majority view.

**ADV JANNIE LUBBE SC:** Thank you.

**MR EMMANUEL LEDIGA:** Question.

**MS GILL MARCUS:** The question I have there from previous evidence presented was that Internal Audit had said that they did not have the capacity and would prefer an outside forensic audit. Did the Board take account of that view of Internal Audit that it

should not be them doing this?

**MS CLAUDIA MANNING:** What Internal Audit indicated was that they didn't feel comfortable doing the investigation on their own and so it was agreed that if they required external support that they should be authorised to be able to do so and that was indicated to Internal Audit at that point. The matter was, the Board then came to a different decision which I will, I can go on to explain now.

**MR EMMANUEL LEDIGA:** Question, what I wanted to ask is that you start from September 2017 and there'd been you know allegations you know before then, would you at some point in time maybe give us some flavour on how they were treated you  
10 know across the Board besides the James Nogu e-mail?

**MS CLAUDIA MANNING:** Commissioner I'm not certain which other allegations you refer to?

**ADV JANNIE LUBBE SC:** Can I assist Mr Commissioner we'll deal with that, it is part of the testimony.

**MS CLAUDIA MANNING:** Okay the CEO and CFO were finally called into the meeting so that the process could be explained to them and they used the opportunity to provide their version of the events leading up to the Board Meeting. In providing that explanation, management contended that the allegations were without any basis or foundation and were purely malicious in nature. They pointed to the detailed  
20 transaction documents supplied to the Board which showed that all PIC processes and procedures had been diligently adhered to in approving the MST transaction and showed further evidence that the alleged girlfriend was not a shareholder or a director of the company. Further ... (intervention)

**MS GILL MARCUS:** Sorry can I ask a question there, and perhaps Advocate you could help me, I'm not, I just want to be clear as to did the CEO disclose how this and where

this meeting had taken place and what had run up to it, who he had been called by or interacted with to get this support?

**MS CLAUDIA MANNING:** I don't recall that he did. The issue of the transaction and the issue of the R300 000,00 were dealt with later on, if you give me, I will come to the – are you referring to the issue of the R300 000,00 loan or gift to the girlfriend or to the alleged girlfriend?

**MS GILL MARCUS:** I think what I'm referring to is how did that whole interaction with them arise and I think the question is, you know I don't want to put words in your mouth I want to get from you and perhaps Adv Lubbe exactly what occurred that led to the  
10 CEO being involved in asking a company that had been PIC beneficiary who had been funded by the PIC to get involved. So what had led up to that circumstance and I think that is actually material to the way this is seen but I would prefer to hear from you. If you don't know about it that's fine, but I would prefer to hear it from you than me saying.

**MS CLAUDIA MANNING:** The CEO did explain his involvement with this woman who was named as his girlfriend and he explained that she had come to the PIC requesting funding for a transaction some time before but it wasn't a transaction that the PIC was able to fund but that's how the relationship was established. How she arrived I'm not certain but it sounded like the normal course of business that a meeting was held. He then later on came across her again, again I'm not sure, I think she contacted him  
20 personally and asked for assistance in helping her business which was in I believe domestic beauty, I'm not certain what the business was. He then believed that the investee company which the PIC had provided funding for which was also in the healthcare and beauty business might be, there might be a potential fit between her business and the other business and so he put the two in touch as a way of seeing if a small business could be supported by a larger business and that seems to be how the,

the sort of origins of the relationship.

**MS GILL MARCUS:** Are you aware of any Ministerial involvement in this?

**MS CLAUDIA MANNING:** I have – I'm not aware of any. I did read a report in one of the newspapers that Adv Geoff Budlender had commissioned an inquiry it was after I had resigned from the Board so all I know is what I read in the newspapers and it seemed to suggest that there was a Minister involved in introducing the two but I knew nothing about that.

**ADV JANNIE LUBBE SC:** Can I perhaps assist Mr Commissioner, I think the gist of the question is at the time when the CEO explained to the Board at this Board Meeting  
10 did he mention that he was called to a meeting by a Minister of the Government and introduced to this lady?

**MS CLAUDIA MANNING:** No.

**CHAIRPERSON:** And the explanation that you have just given, an explanation given by the CEO was it at that meeting where you were?

**MS CLAUDIA MANNING:** No I'll come to that, it was the subsequent meeting and I'll come to it shortly. Now where was I ... Furthermore, oh thank you, the CEO was asked and denied the existence of a romantic relationship between himself and the woman in question. Having heard this the Board, by majority decision then reversed its original decision and decided instead to task the Head of Internal Audit to verify the accuracy,  
20 validity and completeness of the documents provided to the Board so that the Board could be satisfied that the MST approvals were made in line with all PIC policies. The Head of Internal ... (intervention)

**ADV JANNIE LUBBE SC:** Sorry can I interrupt again?

**MS CLAUDIA MANNING:** Sure.

**ADV JANNIE LUBBE SC:** You say it was by majority decision, can you tell the

Commission who was in the minority?

**MS CLAUDIA MANNING:** There was one of the directors, Ms Sibu Zulu who tabled a minority view and had it recorded in the minutes that she did not agree with this decision.

**ADV JANNIE LUBBE SC:** Thank you.

**MS CLAUDIA MANNING:** The Head of Internal had two weeks to report back to the Board and at the very same meeting, this is the meeting of the 15<sup>th</sup> September management was also instructed to investigate the IT systems of the organisation which had breached resulting in confidential transaction documents being distributed in  
10 public. The concern was that this would continue and that the work, it put the work of the PIC at risk. The Board appeared unanimous in its view that the security breaches were a serious risk to the PIC and that they needed to be investigated and resolved as a matter of urgency. This is important as management was subsequently accused by many observers and the UDM of conducting a witch-hunt against whistleblowers.

**ADV JANNIE LUBBE SC:** I'm glad you're emphasising that because in terms of the terms of reference of the Commission 1.6 Mr Commissioner and 1.7 the evidence as I understand is clear that it was a Board instruction to clear this leakage of information and whistleblower issues by an external investigation is that correct?

**MS CLAUDIA MANNING:** Correct.

20 **MS GILL MARCUS:** A follow-up question to that because if that was an instruction to Internal Audit and the determination to find out the breach of the IT why was the subpoena route not followed and did the Board discuss the question of the evidence of saying well you know this was presented but there was a possibility subpoenaing the information or having the ability to do that, why was that not followed so that there was never at this point in time, as far as I'm aware, the disclosure of who James Nogu was

and there was a route that could have been followed that seems not to have been? The special investigation forensic went so far and then stopped, did the Board query what was the stop and why was there no conclusion to that?

**MS CLAUDIA MANNING:** So as I recall it was management not Internal Audit who was asked to identify where the breaches were and so I understand that two IT consulting companies were hired one to look at the sort of software part of the business and the other the sort of actual infrastructure and whether there were breaches that would allow for hacking for example and those investigations took several months to complete. I'm not sure I understand what you mean about a subpoena route but I'm, so I'm not certain  
10 that that was ever discussed or that we were alerted that that was an option.

**MS GILL MARCUS:** But the essence is that there was no information provided or what information was provided to the Board as a result of those investigations?

**MS CLAUDIA MANNING:** We did get reports from a company I believe it was called Naledi Advisory Services and another that was looking at the IT infrastructure which we did review over the course of several months.

**ADV JANNIE LUBBE SC:** Mr Commissioner I'm sorry to interrupt I know the interest of the press in this matter but I think it's unacceptable that while the witness is testifying that photographers walk in and take flash photography of the witness.

**CHAIRPERSON:** Indeed I was a bit taken aback and just about to request that it would  
20 be preferable if one wants to take photographs to do so before the proceedings start.  
Thank you.

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

**MS CLAUDIA MANNING:** Can I continue?

**ADV JANNIE LUBBE SC:** Yes please continue.

**MS CLAUDIA MANNING:** The Board met again on the 29<sup>th</sup> September 2017 and

heard the report from the Internal Audit. In summary the report confirmed that the documents on which the CEO had relied to refute the allegations were valid, accurate, and comprised the complete set of records of the transaction.

**ADV JANNIE LUBBE SC:** Sorry can I just again interrupt, to complete this phase then as I understand your evidence before the first Board meeting management supplied to the Board a complete set of documentation which the Board had in its possession when it deliberated the matter for the first time?

**MS CLAUDIA MANNING:** Correct.

**ADV JANNIE LUBBE SC:** Thereafter the decision was taken for Internal Audit to do  
10 their work and part of that work was to confirm what you testified the validity, accuracy of the documentation supplied by management?

**MS CLAUDIA MANNING:** Correct. The one matter that the Head of Internal Audit had not examined because he incorrectly believed that the Board had excluded this from his terms of reference which was not the case, was the allegation that the CEO had put pressure on a shareholder of a company that had received funding from the PIC to settle a debt of the woman accused of being his girlfriend. The Board instructed the Head of Internal Audit during the meeting to question the CEO about this allegation and also to telephone the particular shareholder named to establish the validity of this allegation. He did so and reported back to the meeting that a) the CEO acknowledged  
20 that he had made this request and; b) that the shareholder concerned also acknowledged that he had been so requested by the CEO and had indeed settled the debt of approximately R300 000,00.

**ADV JANNIE LUBBE SC:** Can I again interrupt, this all happened if I understand you correctly, on the 29<sup>th</sup> September?

**MS CLAUDIA MANNING:** Correct. The ... (intervention)

**MS GILL MARCUS:** Question there and I'm sorry to keep doing this but did you question the CEO as to how frequently he phoned up other companies that were beneficiaries of PIC investments or funding to settle debts, was this the only instance or had this been – is this something that was fairly common practice that oh so and so needs a settlement of 300 000 whatever the amount is an you contact, as the CEO, a person who had been funded by the PIC which assumes an obligation? If I was phoned by the CEO of a funder I would assume an obligation even if it's not an instruction to do that, did you ask how frequently the CEO did this and if this was the only instance?

**MS CLAUDIA MANNING:** The CEO's explanation of what he did in this incident was  
10 that he was trying to help out a struggling business and that he believed that the other business who had, the company who had received PIC funding you know were able to help and so he put them in touch. Commissioner the Board was not at all comfortable with what this answer was and as I say later on in my statement issued a rebuke to the CEO and said that we did not find such behaviour acceptable and so that's where we let the matter end. So as I say in my statement the CEO was asked to explain this incident his response was that he had simply been, it had been a request rather than an instruction and that he was simply trying to help out a struggling small business.

After lengthy discussion the Board's response to the totality of the Internal Audit findings can be summarised as the Board accepted that the MST transaction had  
20 been approved in line with all PIC policies and procedure. However, the Board expressed its concern at the manner in which the CEO dealt with the settling of the debt of the woman in question as this could easily be viewed as the PIC extracting favours from individuals who have done business with the PIC which could bring the PIC into disrepute. The CEO was cautioned about this behaviour and instructed to desist from such actions.

Between the meetings of the 15<sup>th</sup> and the 29<sup>th</sup> September, these were the two Board Meetings, the Board was summoned to meet the then Minister of Finance Mr Malusi Gigaba. This meeting took place on the 26<sup>th</sup> September 2017 ... (intervention)

**ADV JANNIE LUBBE SC:** I'm sorry to interrupt again. Who was at that stage the Chairperson of the Board?

**MS CLAUDIA MANNING:** It was Mr Buthelezi. The meeting took place in an extremely strained environment. The media – the Minister was angry at media allegations that he wanted the CEO removed and he accused the Board of not dealing appropriately with such allegations and had therefore allowed his name to be tarnished  
10 in the media. He made the point repeatedly that he had not met with the Board prior to this meeting; he had not issued any instructions of any nature to the Board and yet was being dragged into this matter and accused in the media of leading a group intent on looting the PIC. He was also extremely irate that the CEO had been quoted in the press as suggesting that Minister Gigaba was behind these attempts to capture the PIC.

In the meeting he repeatedly asked the Board what it had done to clear his name and whether the Board had sanctioned the CEO for making false statements about him.

**ADV JANNIE LUBBE SC:** I'm again sorry to interrupt. Were the full Board at this  
20 meeting?

**MS CLAUDIA MANNING:** I can check my notes, I believe most members of the Board were present ... (intervention)

**ADV JANNIE LUBBE SC:** If I can help I think you mentioned to me is it Dr Goba and Mokoka?

**MS CLAUDIA MANNING:** Yes I have in my notes Dr Goba wasn't present and I think

Ms Mokoka wasn't present as well but the rest of the Board was present.

**ADV JANNIE LUBBE SC:** Was the CEO present?

**MS CLAUDIA MANNING:** The CEO was present yes.

**ADV JANNIE LUBBE SC:** Thank you.

**MS CLAUDIA MANNING:** I'm sorry where was I ... He ended the meeting with a list of issues on which he wanted a report back within a month. Amongst them how were the PIC IT systems hacked, what is the Board doing to resolve the security breaches, what was the identity of the person leaking all the information, what was the motivation behind the e-mail crusade against the CEO and what was the Board doing about the  
10 corruption allegations against the CEO. At the end of the meeting the Minister held a press conference at which he expressed his full faith in the CEO.

**ADV JANNIE LUBBE SC:** Before we conclude that part, during this meeting did the CEO express any view on the allegation that he made false allegations against the Minister, did he respond to that?

**MS CLAUDIA MANNING:** Yes, he denied it completely and said that any article that had been quoting him suggesting that Minister Gigaba was behind this was incorrect.

**ADV JANNIE LUBBE SC:** Were any of the Board members given the opportunity to respond to the allegations by the Minister?

**MS CLAUDIA MANNING:** Yes, after the Minister spoke he gave the opportunity to the  
20 Deputy Minister to respond and the Chairman and also the Deputy Chairman who was present at the meeting and both of them indicated their dismay at the way in which this matter had been dealt with in the media. He then opened up the meeting to members of the Board to comment and the first person to respond was Ms Zulu who at great length explained what had happened on the prior Board Meeting, the 15<sup>th</sup> September and indicated what happened during the meeting what her views were about various

approached taken *etcetera*. This went on for a fair amount of time probably over 30 or 40 minutes I think I remember, and other members of the Board were then allowed an opportunity to respond but before we could the Minister indicated that there was a time pressure because he had a, that the press conference had been arranged and so we had very little time to respond to what the Minister was saying. And then so two or three or maybe four Board members did have a minute or two to respond and then the Minister then proceeded to the press conference after that.

**ADV JANNIE LUBBE SC:** I think what is important and I think I need to emphasise that at the end of the meeting and at the press conference the Minister, if I understand  
10 you correctly, expressed his full faith in the CEO of the PIC?

**MS CLAUDIA MANNING:** Correct.

**MR EMMANUEL LEDIGA:** Question. I just wanted to check something, if you could assist. We heard that there were some huge problems between Dr – You know, between the CEO and the Head of the IT Security, I think Mayisela. Do you have any views on why there were such problems?

**DR CLAUDIA ESTELLE MANNING:** The Head of IT Security was not Mr Mayisela. It was Ms Vuyo Menye, I think. She was the Head of IT – Of the IT Department. I think he was the Head of IT Security. Are you referring to her or to him?

**MR EMMANUEL LEDIGA:** To him. To him. The person who is alleged to have, you  
20 know, put down those corruption charges against Dr Matjila. So I wanted to know, do you know of anything between those two. Dr Matjila and the Head of IT Security, Mayisela.

**DR CLAUDIA ESTELLE MANNING:** I have never actually even met him and the first time I heard about him was late in 2017, when his name emerged out of the IT Security Companies investigation, so I, no, I have no idea what transpired.

**MR EMMANUEL LEDIGA**: What the issues could have been.

**DR CLAUDIA ESTELLE MANNING**: No.

**MR EMMANUEL LEDIGA**: Okay. Thank you.

**DR CLAUDIA ESTELLE MANNING**: Soon after this, on 6 October 2017, the Board was made aware that Minister Gigaba had instructed the PIC Board to conduct a comprehensive review of the activities of the PIC for the previous two years including all PIC transactions concluded in the past 3 years. The wide ranging nature of the request raised concerns within the Board and the Board sought legal advice on how best to respond to this instruction. The Board resolved to send a letter to the Minister  
10 to request a meeting with him, so that the Board could seek further clarity on the exact concerns that gave rise to the instruction. The scope of the instructions and what specific or broad and irregularities the Minister wished to have investigated. The letter was sent to the Minister in late October or early November and although a meeting had been set up to discuss the issues, the Minister cancelled the meeting at late notice. The meeting had still not been rescheduled by the time the Minister was moved to another portfolio in February 2018.

The period between [Intervenues].

**MS GILL MARCUS**: Sorry, just on that. Given that these were instructions, whether or not there was a meeting, were they complied with and did the transactions go with it  
20 documented and submitted or was it left in abeyance?

**DR CLAUDIA ESTELLE MANNING**: Commissioner, we were – We had asked for the meeting with the Minister to seek further clarity and it was our understanding that it was only after we had received the clarity that we would then proceed on those instructions and since the meeting did not happen, we did not act on it and that was in accordance with the legal advice that the Board had obtained.

**ADV JANNIE LUBBE SC:** Can you just perhaps confirm it was independent legal advice.

**DR CLAUDIA ESTELLE MANNING:** Yes. Correct.

The period between September and December 2017 can best be described as a tumultuous one, characterised by fierce divisions in the Board creating a tense and polarised environment at the Board. Both the Board and Management was devoting considerable attention to managing the crisis rather than on the core business of the PIC. The public attention on the PIC eventually waned towards the end of 2018.

**ADV JANNIE LUBBE SC:** Can I again interrupt? I apologise. Before September  
10 2017, what was the culture in board meetings? Can you just explain that? Was it calm? Was everything in order? Any problems?

**DR CLAUDIA ESTELLE MANNING:** There had been lots of stops and starts to the work of the Board, because every time there was a reshuffle of Cabinet, we got a new Chairman and what would happen between the removal of the previous Chairman and the installation of the new Chairman was that typically there would be a two or three month gap in which period the Board would not meet and in fact in April and most of May 2017, Minister Gigaba had instructed management to stop all Board and Board sub-committee meetings whilst he familiarised himself with the work of the PIC and so there was a gap of more or less two months and then the new Deputy Minister, the  
20 Chairman of the Board, Buthelezi was I think effectively appointed at the end of May and within two or three months the James Nogu emails had started and so there was very little time of kind of normal sort of Board functioning in that period.

**ADV JANNIE LUBBE SC:** I think just to make it clear, if I understand you correctly, Mr Gigaba effectively stopped the Board of functioning for a period of more than two months.

**DR CLAUDIA ESTELLE MANNING**: It was April and most of May. I think the Board finally met at the end of May on the 29<sup>th</sup> or 30<sup>th</sup> May of that year, because there was an urgent matter that needed to be attended to which was signing off of the financials. *Ja*.

**ADV JANNIE LUBBE SC**: Thank you.

**MR EMMANUEL LEDIGA**: Just a question. Paragraph 8. You mentioned that there were fierce divisions. Could you maybe sort of give us some more there, in terms of the divisions?

**DR CLAUDIA ESTELLE MANNING**: The Board had been fractured really along a particular line around the issue of how to deal with the allegations of corruption against  
10 the CEO and although the majority decision was that the Board accepted the *bona fide*'s of the CEO and expressed their unhappiness with the way he dealt with the matter of the R300 000, believe that he had performed his duties in accordance with what our expectations were and so the view was that he should be allowed to continue his work. There was, as I said before, a minority view which held that the Board had acted improperly in not sanctioning or suspending or conducting an independent forensic enquiry and that really created the tensions for the next couple of months.

Just to correct, at the end of page – Sorry of point 8, the public attention on the PIC eventually waned. It was towards the end of 2017, not 18.

The PIC became the subject of renewed public and media attention in March  
20 and April 2018, when a series of media articles were written about transactions into which the PIC had entered, as well as allegations of victimisation of certain staff. What was striking about the March/April 2018 media attention, was the new narrative that the Board had acted improperly in not suspending the CEO in 2017, that the Board had been intent on protecting a corrupt CEO and that the CEO's attempt to identify leaks and to enhance IT Security of the organisation amounted to the CEO conducting a

witch hunt against honest whistle blowers. The role that the Board and the Minister at the time had played in urging the CEO to ensure that the PIC's IT Security should be enhanced did not feature in this narrative. Furthermore, any suggestion that the PIC had been the subject of an attempt at State capture had completely disappeared from this new narrative.

It is unclear to me, what or who was behind this renewed attention on the PIC, but it seemed to me, to be driven by disaffected staff who had an axe to grind against the CEO and who were leaking information and misinformation to politicians. This culminated in the United Democratic Movements launching an urgent application  
10 in June 2018, to amongst other issues, direct the Minister to suspend the CEO, conduct an independent enquiry into the MST transaction, prohibit the Board from taking any decisions concerning the suspension of the CEO as it had a conflict of interest concerning the CEO, having failed to suspend him and to conduct an independent enquiry into his alleged corruption at the time.

It was under the leadership of the new Chairman of the PIC, Mr Gungubele that the Board met to discuss this legal challenge. The first meeting to discuss the UDM application took place on 22 June 2018. The Chairman pointed out that he was not familiar with the background to the matter having only recently been appointed as Chairman of the Board and had not been privy to any of the discussions on this matter.

20 [Intervenues].

**ADV JANNIE LUBBE SC:** Just to – Sorry to interrupt. Just to make it clear, he was now the 'new kid on the block'. He was recently appointed.

**DR CLAUDIA ESTELLE MANNING:** *Ja.*

**ADV JANNIE LUBBE SC:** And he had no institutional knowledge of what happened before.

**DR CLAUDIA ESTELLE MANNING**: That is correct.

**MR EMMANUEL LEDIGA**: Just a question there. During that time when State capture was alleged, how did the Board feel about that? I mean, did the Board feel that was the case or they did not think so.

**DR CLAUDIA ESTELLE MANNING**: So, I can only give you my opinion at the time. Was that if indeed there was an attempt to capture the PIC that it was my responsibility as a Director to ensure that we did we could to protect the organisation. It is an extremely important institution. It manages over R2 trillion worth of public servants pensions and if indeed there had been any effort to do any of the things that were  
10 alleged in the media, that that was – It was my responsibility as a Director to not allow that to happen.

The Chairman indicated however that he had studied all of the documents that had been submitted to the Minister of Finance, Minister Nene, following Minister Nene's request to the Board for an update on the matter that had once again been in the media. The Chairman spent a considerable amount of time in that meeting reading aloud from minutes and reports and raised a series of questions to the Board regarding the appropriateness of the manner in which the Board had dealt with the matter in September and October 2017. Over the course of that meeting and over the next few weeks, it appeared to me that Chairman had taken a view that the Board had acted  
20 wrongly in its response to the corruption allegation against the CEO and that the only course of action that would satisfy him would be to commission an independent investigation into those allegations.

**ADV JANNIE LUBBE SC**: My apologies to interrupt you again. You testify that he has spent considerable time reading aloud from minutes and reports and raised questions, did he ask any of the Board Members who are privy to these matters to give an

explanation to him, what happens.

**DR CLAUDIA ESTELLE MANNING**: Yes, he did. At some point during the course of that meeting, he raised a series of questions and several Members of the Board were given an opportunity to explain. The Board remained divided on this issue. The need for an independent investigation, until the time of my resignation along the same fault lines as the previous year. The majority view, of which I was part, was that the Board had applied its mind to the facts of the matter with diligence and had made a legitimate decision on how to react to these allegations. In my view, good governance dictated that unless new information had emerged to reopen the matter, there is no reason to

10 review or reverse the Boards original decision. The minority view on the Board at the time held that the Board had not acted properly and had followed a flawed process in not placing the CEO on suspension and conducting an independent enquiry. The matter came to a head for me on 10 July 2018 when the Chairman filed an affidavit in response to the UDM urgent application. In his affidavit, the Chairman did not oppose the UDM application, unlike the other respondents, namely the PIC Board, Minister Nene and the CEO who were three of the four respondents [Intervenues].

**ADV JANNIE LUBBE SC**: Can I again intervene. Mr Commissioner, those documents will later be handed formally, the application. The respondents were the Chairperson, The Board, The Minister of Finance and the CEO. Is that correct?

20 **DR CLAUDIA ESTELLE MANNING**: That is right and three of the four opposed the application and the Chairman did not oppose the application.

**ADV JANNIE LUBBE SC**: The point I want to raise with you is, it was debated and discussed at Board level and it was the Board's decision to oppose the application.

**DR CLAUDIA ESTELLE MANNING**: Correct.

**ADV JANNIE LUBBE SC**: And out of line with the Board decision, as I understand you,

the Chairperson then decided not to go along with Board's decision and not to oppose the application. Is that correct?

**DR CLAUDIA ESTELLE MANNING**: Correct. It appeared to me that in deciding not to oppose the UDM affidavit, the Chairman was effectively agreeing with the UDM assertion that the Board of the PIC should not be allowed to make a decision about the fate of the PIC – Sorry about the CEO. In his affidavit the Chairman makes a series of statements that reveal his opinion that the Board had acted improperly. He notes in the affidavit that he “cannot confidently state before this Honourable Court that the Board of the second respondent acted properly when it dealt with these matters.” He further  
10 states that “there is not much objectivity and independence” and that “the Board had blindly relied on the views and advice of the first respondent, namely the CEO and in the process compromised its duty of care. [Intervenues].

**ADV JANNIE LUBBE SC**: Can I again interrupt? Was this view expressed by the Chairperson in line with the minority view of Ms Zulu at the time when it was discussed at Board level?

**DR CLAUDIA ESTELLE MANNING**: Well she was not, you know, included in his affidavit, but I assume that these would be her views as well.

**ADV JANNIE LUBBE SC**: Okay.

**DR CLAUDIA ESTELLE MANNING**: Mr Gungubela's approach to the application  
20 clearly revealed that he had no confidence in the Board and in fact accused it of having improperly – Acted improperly. In the circumstances, I decided that I could not remain on the Board and decided to tender my resignation.

I have been asked by the evidence leader to reflect on my experience of the former CEO and the current acting CEO who was the CFO. Over the past two and half years I served on the Board, I had – Sorry. Excuse me. Over the two and half years I

served on the Board, I have frequent interactions with the CEO and the CFO at Board meetings and also in Committee meetings. As is normal in any organisation, there were often robust debates between management and the Board on issues of policy, governance and individual transactions and I frequently disagreed with management on issues. Notwithstanding this difference of opinion, it was my experience of both the CEO and the CFO that they demonstrated good professional conduct, were proficient in their knowledge of the business of the PIC and exercised their duties diligently.

10 I have also been asked by the evidence leader to comment on my experience of sitting on the Board and some of the Board Committees on which I served.

**ADV JANNIE LUBBE SC:** Mr Commissioner, if it is convenient, can I ask that at this stage that we take the tea adjournment?

**COMMISSIONER:** Until?

**ADV JANNIE LUBBE SC:** 15 minutes will be suitable.

**COMMISSIONER:** 15 minutes. Let us make it quarter past. We will adjourn until 11:15.

**REGISTRAR:** All rise.

**INQUIRY ADJOURNS**

**INQUIRY RESUMES:**

20 **CHAIRPERSON:** Yes, Mr Lubbe.

**ADV JANNIE LUBBE SC:** Thank you, Mr Commissioner, if you can just remind the witness that she is still under oath.

**CHAIRPERSON:** Yes, Ms Manning, you're still under oath.

**CLAUDIA ESTELLE MANNING:** (s.u.o.)

**CHAIRPERSON:** Please proceed?

**MS CLAUDIA ESTELLE MANNING:** I refer you back to page 6. I have been asked by the evidence leader to comment on my experience of sitting on the board and some of the board committees on which I served.

**ADV JANNIE LUBBE SC:** Can you just for the record then tell the Commissioner what committee you served on apart from the board?

**MS CLAUDIA ESTELLE MANNING:** Certainly, the investment committee, the directors' affairs committee, the ICT governance committee and the social and ethics committee. I have the following observations:

10                   “Given the increasing complexity of commercial transactions, the fact that the PIC is managing public funds and the perception that investment decisions can be improperly influenced the board, through its investment committee, could be given greater line of sight into investment decision. This can be achieved, for example, by changing the delegations of authority and enhancing reporting frameworks. Also...(intervention)

**MS GILL MARCUS:** Sorry, can I ask a question on that?

**MS CLAUDIA ESTELLE MANNING:** Sure.

20                   **MS GILL MARCUS:** You're making these recommendations now but was it something that when you were in the committee you felt there was an inadequacy that that the delegations were too high, that you didn't have enough line of sight of the decision-making, the risk profiling, the cumulative risk that was there because the way I've understood is that each agreement to invest is looked at in itself, the counterpart might be the same. So you would agree to this investment with counterpart A and this investment with counterpart A and this investment with counterpart A, each within the delegated authority but cumulatively not the case. Did you raise any of these concerns? How as this addressed in the investment committee meeting?

**MS CLAUDIA ESTELLE MANNING:** Commissioner, the issue frequently was discussed and debated at the investment committee, the issue of changing delegations of authority, the issue of concentration risk, single obligor or borrower limits and there were several pieces of work-in-progress around strengthening the overall risk framework, changing delegations of authority, providing the board with substantially more oversight into transactions that had been concluded in other - you know, under delegated authority.

So improvements were been made but there were certainly room for plenty more improvements to be made.

- 10 **MS GILL MARCUS:** Was this a subject matter of the board itself referred to by the investment committee and was that done by the committee as a whole or as the Chair of the committee reporting to the board?

So, in essence, what weight were these kind of concerns given in the board and when you talk about divisions in the board, were the divisions in the board only about the approach or otherwise to the CEO or were they also about investment decisions and in that sense, what – when you talk about a division, I mean was it like 50/50 split or because in the sense of reference when you've had a minority view is different from a division in a board and perhaps just to get an understanding of how the board viewed the investment issues and reports from the investment committee.

- 20 **MS CLAUDIA ESTELLE MANNING:** The delegations of authority can only be changed at the level of the board not at subcommittees and we – during the course of 2018 the investment committee had raised the issue of changing the delegations several times and management had begin work to redraft those.

Some of this had been discussed at at least one and possibly two investment committees. I think it was in May of 2018 that the investment committee actually made

a decision to recommend to the board that on one part of the business, the listed investments, that the delegation is immediately changed to be brought down to R2 billion. Although the committee couldn't effect that resolution, it could only be done at the board, it was recommended to the board.

I cannot recall if the board did decide that before I resigned but it certainly would have been a recommendation that would have gone to the board within the next month or two. I just – I confirm now whether it was effected or not by the board.

**MS GILL MARCUS:** Perhaps we can get that information in due course, but in addition, when you say you had concerns or lack of insight, were there any specific  
10 deals or investments that were made that gave rise to those concerns and could you indicate which those were?

**MS CLAUDIA ESTELLE MANNING:** Sure. The particular transaction that was discussed after which the investment committee made the recommendation to change the delegations immediately was the Ayo Technology Solutions transaction.

**MS GILL MARCUS:** Can I just – sorry, can I follow up on that?

**CHAIRPERSON:** Yes.

**MS GILL MARCUS:** Okay. The question around that is if one looked at the two  
20 elements to it, the Independent Newspaper and the Ayo one would assume from an investment committee point of view you would assess the servicing of the loan etcetera from the first leg of the investment, which was much earlier, to the later one. How did that get agreed to on the scale that it did, given the non-service and the problems with the first leg of the investment in that particular company.

**MS CLAUDIA ESTELLE MANNING:** Commissioner, this was a real concern of the investment committee. You may recall that in the course of - I think it was April of last year, a company in which the same counterparties were involved had intended to list a

new company called Sagarmatha. Many of the same counterparties involved with Ayo and in fact I have a note in my book that actually made a little table in an April meeting where the Sagarmatha transaction was being discussed that in fact the cumulative counterparty exposure would have been had all of these happened in excess of R8 billion which many members of the committee were very uncomfortable about.

In the end the Sagarmatha investment was not made and I would point out that the Ayo transaction was approved, it was a done deal by the time it came to the investment committee, it has been approved by management as part of management's delegated authority and so...(intervention)

- 10 **MS GILL MARCUS**: Sorry, just on that because looking at that issue it was a question of whether it was submitted for approval and then subsequently for ratification, did the investment committee turn around and say you have done it but you do not have our sanction we are not ratifying it, given the issues.

- Given that is within the delegation of authority, notwithstanding that, the concerns that you have should be sufficient, as an investment committee, to say we are not ratifying it, if you had the concerns, the fact that it was changed to agree to ratification legitimated what had happened before and in that as well perhaps within the delegation of authority were there other areas in which there were done deals before it came to the investment committee so that in a sense you have misgivings, you ratify,
- 20 it's approval retrospectively as an investment committee because it's in within the delegated authorities.

Even if you're in within the delegation of authority it doesn't mean that it's approved if you haven't gone through the right process of your investment committee, etcetera, etcetera, and in those deals, the timing of payment and everything before approvals.

So I'm asking if that was the only instance? Were there other instances where you had misgivings about the process and the question of a post-ratification or a sense that management was proceeding because they had the delegation of authority not because you agreed it was the right investments and, if so, what were those kinds of investments?

**MS CLAUDIA ESTELLE MANNING:** I can't think of any other investment that was approved by management that I had misgivings about, none come to mind. The Sagarmatha transaction was presented to the committee not for approval because again that was – management had the authority to approve that.

10           It was brought to the investment committee to get a sense of our level of comfort given that the investment in Independent Newspapers was not performing particularly well and how would the investment committee respond to a new investment which would effectively merge or would merge Independent Newspapers into the new entity.

The investment committee expressed a high level of discomfort on the transaction but ultimately it was management who made the decision not to proceed having heard the investment committee.

**MS GILL MARCUS:** Did you...(intervention)

**MS CLAUDIA ESTELLE MANNING:** I will deal with the Ayo transaction just a little – in  
20 two minutes and I'll give you more information .

**MS GILL MARCUS:** But just one question further perhaps is that given the misgivings and again the difference of view in the board were - just to respond to that, were they substantive issues about the role, the delegation of authorities or were they around the personality issues and the allegations?

And then just one other question, is that from the investment committee that

you serve on, was there a similar discussion about the Steinhoff/Lancaster investment and what were the issues there that you were aware of?

And the directors' affairs committee that you sit on, the question for me there would be, did the directors' affairs committee discuss all the issues and allegations around the CEO, CFO and governance and delegation of authority?

**MS CLAUDIA ESTELLE MANNING:** Please remind me of your first question? It was about the directors' affairs committee, Steinhoff and – oh, you asked about the divisions in the board.

10 The issue of the delegations of authority was not a contested one. In the investment committee I think there was agreement and consensus that there was a need for a review and a revising of the delegations of authority, so that was not a – it wasn't contested.

The directors' affairs committee did discuss matters involving executives of non-executive directors. I'm not aware of any other allegation or I certainly can't recall any other allegation that had been made other than the one that I've just described, that was discussed there.

20 On the issue of Steinhoff, it was presented to the investment committee, it was for approval because it wasn't a listed vehicle, it was an investment by an unlisted business into Steinhoff and it was debated robustly in the investment committee and the decision I think was an unanimous one to invest in it.

On issues of transactions it's a very difficult call to make because one can make investment decisions that are in hindsight really bad, as Steinhoff was, and I mean I have thought about it long and hard, did we do anything wrong on making that investment decision? And I honestly think that we got it wrong. I think we got it wrong along with many, many other players who were exposed to Steinhoff.

**MR EMMANUEL LEDIGA:** First question, you mention that there was some 8 billion of exposure to one counterparty?

**MS CLAUDIA ESTELLE MANNING:** Sorry, no, there would have been.

**MR EMMANUEL LEDIGA:** Ja, yes. Do you have limits within the PIC sort of in terms of one party doing transactions? Are there limits?

**MS CLAUDIA ESTELLE MANNING:** The issue of concentration risk into one counterparty is one that really did concern me a great deal. I can't tell you off the top of my head what those limits are. There are policies in place which I'm sure we can – the evidence has at his disposal. I can't tell you immediately what those are but it is  
10 certainly something, as I say later on in my statement, that I think does need urgent attention.

**MR EMMANUEL LEDIGA:** Second question is on the so-called contentious transactions, you know, the seven or eight or ten transactions, will be within delegations of management or they would have even gone to the IC, to the investment committee?

**MS CLAUDIA ESTELLE MANNING:** I'm not sure I understand which contentious seven or eight investments?

**MR EMMANUEL LEDIGA:** You know the Ayo, the Mozambique transaction, the Sagarmatha, those so-called transactions which had been in the media for the past two years or so, those that were done, were they within the PMC delegations or they went  
20 to your committee or to the board committee? So I just want to establish whether the bulk of them were within the management decision framework. I don't know if I'm clear?

**MS CLAUDIA ESTELLE MANNING:** Sure.

**MR EMMANUEL LEDIGA:** Okay.

**MS CLAUDIA ESTELLE MANNING:** So during my time on the board – I mean, the

delegated authority allowed different committees to approve different transactions so Ayo was approved by the management, it did not come to the investment committee or the board, so the matter was reviewed and the decision to make or not to make the investment was made also by management because in the listed investment space the delegated authority allows – I think the limit – and I'm not certain if my recollection is correct but I think the limit was something like R10 billion for the PMC to approve and so in the listed space the investment committee very rarely saw these kinds of transactions except to test appetite which is what happened with Sagarmatha.

10 In the unlisted investment space, many transactions, again I can't recall exactly what the delegations were but they provided for approvals by the board investment committee or the – what's called the fund investment panels which are subcommittees of the investment committee.

**MR EMMANUEL LEDIGA:** Which transactions actually go to the board because I mean if you have 10 billion for listed, I don't know, and you mentioned some number for the unlisted, which board – which financial transaction is actually going to the board?

**MS CLAUDIA ESTELLE MANNING:** Commissioner, I'm afraid I really can't remember what the delegations say, sorry, I would be – I mean, my memory is just not good enough but I'm sure that you could get the kind delegation of authority which would spell that out and I could certainly, you know, help you to tell you where to look. Okay?

20 If I can continue with my observations about the board and the committees – I don't know where I was. Okay, so should I start here?

So for the reasons above it important that the investments committee skill set is regularly reviewed to ensure that its members have deep knowledge and experience of complex financial banking processes and transactions.

The practice over the past two decades has been for the PIC to be chaired

for the deputy – by the deputy finance minister. I fully appreciate the rationale for the National Treasury and the Minister of Finance holding the PIC accountable for its performance.

Government employees receive a defined benefit when they retire which means that government ultimately guarantees all government employees' pension obligations regardless of the performance – of the investment performance of the PIC as a fund manager.

For this reason the PIC's financial performance matters to government and needs to be closely monitored.

10           Nonetheless, I believe that the tradition of appointing the Deputy Finance Minister as Chairman of the Board of the PIC inadvertently exposes the organisation to perception of political interference.

In my opinion, the PIC can still be held to account by the treasury through the rigorous oversight that National Treasury already provides over its financial performance without having serving politicians on the board.

The PIC could benefit from a practice common to many commercial, financial institutions namely to invite independent, seasoned, often retired executives to act in an advisory capacity to management especially when complex transactions are being considered.

20    **CHAIRPERSON:** Sorry to interrupt. Should those people you mention also not be invited to serve on the board?

**MS CLAUDIA ESTELLE MANNING:** I think that there's always room for improving the degree of rigour in various areas including on commercial issues.

**MR EMMANUEL LEDIGA:** Question. Just in terms of political pressure say that the PIC could fall under, do you have any sort of recollection or any point where you might

have seen that, the political, you know, pressure or...

**MS CLAUDIA ESTELLE MANNING:** Over the – maybe a year of the period that I was in the PIC there were intense sort of political parties and organisations and trade unions commenting on whether the board was being politically influenced or not, there were letters that were written to the PIC, to the board, expressing dissatisfaction about interference.

So it was – it really – it seemed to me that the presence of a politician on the board seemed to absorb quite a lot of political attention.

**MR EMMANUEL LEDIGA:** But were there some pressures where you felt that as a  
10 board member or like investment committee member that there was political pressure to do transactions and all that?

**MS CLAUDIA ESTELLE MANNING:** Not – nothing that I was aware of.

**CHAIRPERSON:** Can I just refer you to the second paragraph of your observations or comments here? The one where you say:

“Also for the reasons above it is important the investment committee’s skill set is regularly reviewed to ensure that its members have deep knowledge and experience of complex financial banking processes and transactions.”

Did you have any misgivings about the people that you served with either on that committee or on the board as a whole?

20 **MS CLAUDIA ESTELLE MANNING:** Commissioner, I would be loathe to cast any aspersions on the directors of the board many of whom I hold in very, very high regard, so this observation is not intended as a comment on their competence but I think that in the world that we live in now, in the market in which we operate where there are increasingly high levels of complexity in the transactions that are being considered I think that there’s definitely room for improvement to enhance the skill set that an

institution as important as the PIC managing R2 trillion worth of assets should have access to the very best expertise to help guide making the best investment decisions.

**CHAIRPERSON:** There's no qualification requirements, is there, for appointment of people to the board or various committees.

**MS CLAUDIA ESTELLE MANNING:** I'm not aware of what the criteria are. All directors are appointed by the Minister of Finance and I don't know whether there are – except what the criteria are.

**MR EMMANUEL LEDIGA:** Just as a follow up. In terms of the IC, can you tell us how sort of it was put together? Do you know? Can you recall? Investment committee of  
10 the board.

**MS CLAUDIA ESTELLE MANNING:** The Chairman of the board typically determines which members of the board should be appointed to various subcommittees so when I was appointed to the board I think it was in – maybe in the same month in December of 2015 or maybe January 2016 that the Chairman made a decision and directors were duly appointed onto committees. I assume that in making that decision he considered the skill set but I was not privy to how he made that decision.

**MS GILL MARCUS:** Just on the question, when you've reached the point you're coming to specific discussions now on Ayo, but in your letter of resignation did you get any reply and was there any discussion with you about reasons and how much of that  
20 was the role – how much of the decision – you do indicate in your submission that it related to the new chairman but what was the response to your resignation? Did you get a letter of response? Was there any contact with you or any indications of how your resignation was received by the board members?

**MS CLAUDIA ESTELLE MANNING:** No, I didn't get a response. If I can continue? As an example it would be useful to consider a committee focusing on concentration risk

which is a point that I made earlier on.

As an example, the Ayo transaction experience demonstrated to me that due diligence and transaction approval, governance processes need to be applied with greater rigour.

I'm going to turn now, Commissioner, to the Ayo transaction, some of which I've already covered but I'll go through it quickly.

10 "There's been a great deal of public attention on one particular transaction into which the PIC entered, Ayo Technology Solutions and allegations have been made that the investment committee was negligent in their handling of this controversial transaction. I would like to take this opportunity to put on record the facts of how the investment committee, of which I was a member, dealt with the transaction.

The PIC entered into the Ayo transaction in December 2017. Neither the board nor the investment committee was involved in approving the transaction as it fell under the listed investments part of the PIC and the PIC delegation of authority framework provides for approvals of this nature to be done by management.

20 The first I learnt of the transaction was several months later in late March 2018 when a story first appeared in the City Press newspaper alleging that normal due diligence processes had not been followed in approving the transaction and also questioning the commercial merits and risks of the transaction.

I, along with several other members of the board, was very perturbed by the allegations and our concerns were tabled and discussed at several investment committee meetings from April until my resignation in July 2018.

The investment committee on the 24 April 2018 requested management to provide the committee with information on this transaction and various pieces of information was presented to this committee over the course of several meetings in April, May and July.

The first was on the 8 May when the IC received the first batch of information on the process followed in approving the deal as well as information on the valuation of the business.

10 After reviewing the information provided the committee raised a number of concerns including the process followed in approving the deal, whether the due diligence process typically followed for listed investments had indeed been followed.

The business case for this investment, which many committee members found perplexing, in particular the very high valuation of a company, the apparent failure to fulfil certain conditions precedent before the funds were disbursed.

Because of the extent of the committee's discomfort over the governance and the rationale for this investment, the investment committee requested the acting company secretary to draft a letter to management expressing the committee's discomfort about this transaction.

20 I've attached to my statement an email that was drafted by the secretariat in May 2018 to provide this Commission with evidence of the seriousness with which the committee dealt with this matter.

I would like to highlight the final point made in that letter namely that as a result of the committee's unhappiness with this transaction, the IC took a decision to recommend to the board the only body that has the authority to

amend the delegation of authority, that the delegation should be amended to ensure that all transactions valued at 2 billion or above, other than those necessary for normal portfolio rebalancing, should be approved by the investment committee.

The review of the delegation of authority was still ongoing at the time of my resignation.

A special investment committee was convened to discuss the Ayo transaction on the 30 May...(intervention)

**MR EMMANUEL LEDIGA:** Question, question, question. So the last point you make is  
10 that under 2 billion it must go to management and then you are saying in a normal portfolio rebalancing management can buy Anglo American shares of 20 billion without going to the investment committee, is that what I'm hearing?

**MS CLAUDIA ESTELLE MANNING:** The – I think the position that the committee took is that certain investment decisions need to be made very quickly as part of the PIC's mandate to maintain a particular portfolio and that if the investment committee was involved in portfolio rebalancing that it would impede the ability of the listed investment section of the PIC to do its job because investment committee decisions take much longer to make whereas portfolio rebalancing often requires fairly quick actions to be taken.

20 **MR EMMANUEL LEDIGA:** Sure, what I wanted to check was the so-called dip-dive when the PIC buys say 16billion of the MTN shares and all that would you think this would come, should come to the Investment Committee or the Board, because it's really part of the portfolio, the invested portfolio?

**MS CLAUDIA MANNING:** Again I am not certain what the Delegation of Authority currently or at the time said, I believe that a transaction of 15billion would have come to

the Investment Committee but I stand to be corrected because I'm not certain what the listed investment delegations said at the time.

A special investment committee was convened to discuss the IO transaction on the 30<sup>th</sup> of May and the minutes of that meeting I think are attached to my statement, or if not I'm sure the evidence leader would have access to those. The meeting discussed two aspects of the transactions, the process followed in approving the deal and the commercial rationale for and the risks arising from the investment. The Head of Internal Audit notified the committee that his department had identified a problem with the process of approving this transaction and outlined the discrepancies. In  
10 essence the transaction was only formally approved by the PMC listed investments on the 20<sup>th</sup> of December 2017, yet the IOIPO share subscription agreement had been signed on the 14<sup>th</sup> of December, which effectively gave – which gave effect to the transaction.

Management's explanations for this discrepancy was that all the relevant documents, all the relevant departments, excuse me, Legal, Risk and ESG, had completed their due diligence and signed off on the transaction, which indicated their support to proceed by the 14<sup>th</sup> of December, and so the approval at the PMC Listed Investments meeting which was on the 20<sup>th</sup> of December was a formality, and that the  
20 meeting of the 20<sup>th</sup> of December should have indicated a ratification instead of an approval of the deal, which is allowed by the PIC's Delegated of Authority framework and was a common practice by the listed investment team which participates in book builds prior to PMC meetings and has these transactions ratified by the PMC post the event.

And just to clarify this ratification was not by the Investment Committee, this was a ratification by the PMC, so the Investment Committee saw this several months

later, the ratification that took place was by the PMC, not by the Investment Committee.

**MS GILL MARCUS:** Can I just ask a question in relation to this, if we're saying that the book builds etcetera take place and there's a process of ratification at the end who decides on the investment within the management structure that ensures that due diligence has taken place, all the assessments of whether that investment should take place have been done prior to a book build if the approval is a ratification as a formality rather than as an approval process. There seems to me to be a contradiction in approach.

**MS CLAUDIA MANNING:** Commissioner my understanding is that the PMC there are  
10 two PMC's, two Management Executive Committees, the PMC Listed and the PMC Unlisted, that decision would have been taken at the PMC Listed at the time to proceed with the transaction. I am as a member of the Investment Committee not part of those committees so I am not certain if that was the case, but that's my assumption.

**MS GILL MARCUS:** But there would be no report to the Investment Committee that we have done this, this is a – and assuming anyway that there would be your audit process and this process that would either come to the Investment Committee or to the Board to say in these transactions this is what occurred.

**MS CLAUDIA MANNING:** Yes.

**MS GILL MARCUS:** So that the decision is taken subject to due diligence and  
20 everything else having been conducted and then commence with the book build, not the other way round?

**MS CLAUDIA MANNING:** So in the PMC Listed area the decision, the delegation allows for the PMC to decide that yes they have the appetite to proceed, to conduct the due diligence and to formally approve it, without having to come to the Board, however the Investment Committee during my time at the Investment Committee was receiving

regular I think they were quarterly reports of which investments had been made by the various departments.

**MR EMMANUEL LEDIGA**: Question, I just – well I checked something which was said before, the PIC took 100% of that private placement with Ayo, was that a normal placement or was this some underwriting that the PIC did, because with underwriting then you take 100% and you get a fee to underwrite, so I just to understand whether it was a normal placement or sort of an underwriting thing.

**MS CLAUDIA MANNING**: As it was reported to the Investment Committee the PIC's decision was not to underwrite but to actually take the entire I think it was 29%, I can't  
10 recall if it was exactly that number, but to take the entire amount, correct, that was the decision and it was explained as that the team believed that this would be a good investment hence their decision to take the entire placement.

**MR EMMANUEL LEDIGA**: And there was no policy which said that the PIC couldn't take 100% of the placement?

**MS CLAUDIA MANNING**: There's no such policy as far as I'm aware.

**MR EMMANUEL LEDIGA**: Okay.

**MS GILL MARCUS**: Just on that did you query or did it come to Investment Committee that they took 100% because others were not interested?

**MS CLAUDIA MANNING**: Yes, we – I mean when a Commission looks at the detailed  
20 minutes of the discussions at three or four investment committees there were a raft of issues that were raised by the Committee, remember this was a done deal, but we remained uncomfortable about many aspects of them, the size of the investment, the price of the subscription agreement, the fees that had been paid to counter parties and there were a number of issues that we expressed concern about.

**MR EMMANUEL LEDIGA**: Besides that being a done deal did the Risk Committee and

the other committees say something about it, you know sort of to express some reservations about it?

**MS CLAUDIA MANNING**: If you're referring to the Audit & Risk Committee I am not a member of that committee and I am not certain how it was dealt with, I'm sorry I think it might be useful to just get the minutes of the Audit & Risk Committee.

**MR EMMANUEL LEDIGA**: Okay thanks.

**MS CLAUDIA MANNING**: But the Internal Risk Committee, if that's what you're asking about, they did sign off on the transaction so not the Audit and Risk Committee of the Board but the department the Risk Department.

10 **MR EMMANUEL LEDIGA**: The internal one?

**MS CLAUDIA MANNING**: The internal Risk Department signed off yes.

**MR EMMANUEL LEDIGA**: And they didn't talk about the valuations and the other things they just said it's fine.

**MS CLAUDIA MANNING**: I have seen a draft, I have seen a report that the Risk Committee provided, and I suspect that you might want to have a look at that, and they would have raised you know I'm sure they would have raised, I don't recollect what the details of that report said, but they would have raised what they considered to be the risks, but in the end indicated their level of comfort with the PMC Listed going ahead with the transaction.

20 As the minutes reflect the approval of the deal on the 20<sup>th</sup> of December, after it had been executed on the 14<sup>th</sup> of December, was explained to the committee as an administrative error, and that once the error had been identified by internal audit it had subsequently been corrected at a meeting of PMC Listed Investments in 2018, May, which recorded the meeting as having ratified the transaction. The Head of Internal Audit indicated that he was satisfied with the correction of this error.

**ADV JANNIE LUBBE SC:** Can you perhaps recall whether the ratification took part before the internal audit raised this as an audit query, or not?

**MS CLAUDIA MANNING:** As I understand it the internal audit on the meeting of the 30<sup>th</sup> of May came to the Investment Committee and said we have identified a problem with the process and we have alerted management, they have subsequently corrected it and we are satisfied.

**CHAIRPERSON:** And how was it corrected, did it go back to the committees responsible for that?

**MS CLAUDIA MANNING:** Yes that's what was indicated, that the committee had met  
10 again several months later and corrected the minutes to show that they had not approved the deal but that they had ratified it.

The rest of the meeting was focused on the commercial aspects and risks of the transaction, the minutes will reflect the concerns raised by members of the committee, most of which revolved around the rationale for the high valuation of the company, IO's track record, the historical financials of IO, and that of its pipeline companies.

The last IC meeting I attended was on the 12<sup>th</sup> of July and we once again requested an update of all the outstanding matters on which the committee had requested further information. An extract of this meeting is attached, I'm not sure if it is,  
20 to this statement, but the evidence leader will have copies of those, but the issues that were discussed were the BEE transaction into which IO had entered shortly before the listing, the reasons for the substantial discount given to the BEE parties, an explanation of what was understood at the time to be a related party transaction of 78million, which in fact the related party transaction refers to an amount of 57.8million.

As I understand it responses to these questions were dealt with at IC

meetings after I had resigned from the Board in July last year.

**MS GILL MARCUS:** Sorry, can I just ask the evidence leader if we could get copies of that response to those issues in relation to that?

**ADV JANNIE LUBBE SC:** It will be made available.

**MS GILL MARCUS:** Plus who the advisor was and what the fees were paid in relation to this transaction.

**ADV JANNIE LUBBE SC:** I will ask for that information.

**MS CLAUDIA MANNING:** Commissioner I have made specific reference to the IO transaction to counter-suggestions that the Investment Committee was negligent in  
10 their duties in addressing the problems emerging from this transaction. I believe that the information provided in this account demonstrates that many members of the Investment, of the PIC's Investment Committee treated their responsibilities to provide oversight over the governance of the organisation with the utmost seriousness. As the document – the relevant documents clearly show there were robust debate and disagreements between members of the committee and management over many issues, and I can attest to the fact that the Investment Committee exercised the highest  
10 duty of care in addressing the inconsistencies and divergent approaches to this particular transaction, thank you.

**ADV JANNIE LUBBE SC:** Thank you Dr Manning. I want you to conclude your  
20 evidence by referring to your letter of resignation dated the 22<sup>nd</sup> of July addressed to Mr Nene, the then Minister of Finance. Can you please deal with that?

**MS CLAUDIA MANNING:** Sure.

“Dear Minister Nene,

It is with great sadness that I hereby tender my resignation from the Board of the PIC. I have had the honour of serving on the Board of Directors of the

PIC for the past two and a half years since you appointed me in December 2015 during your previous term as Minister of Finance. As you are aware there has been a great deal of public attention focused on the PIC over the past few months. Much of this has centred on allegations of graft, poor investment decision making and political meddling in the PIC. The Board has consistently applied its mind as to how best to manage these allegations. Whilst some may not agree with all the decisions that my fellow directors and I have made, particularly over challenging governance issues I am firmly of the view that the Board has always acted in good faith and place

10 the principle of good governance and the well-being of the PIC as an institution at the core of its decision making. I have tried at all times during my term of office to exercise my duty of care as a director to the best of my ability and with the utmost integrity.

All of my contributions have been motivated by the desire to maintain the highest ethical standards, and the objective of strengthening the PIC has been central to all my deliberations. This objective has been consistent throughout all my years of service in key public institutions.

Unfortunately I now find myself unable to continue serving on the Board. The ongoing and public discord between members of the Board and the new

20 Chairman makes it impossible for me to remain part of such a fractured and pulverised Board. The recent affidavit submitted by the Chairman states that he cannot confidently state before this Honourable Court that the Board of the second respondent acted properly when it dealt with these matters.

This lack of trust amongst directors clearly does not engender a conducive environment for the PIC Board to function, to operate effectively.

The PIC is an important constitution for South Africa and it is vital that all stakeholders ensure that the organisation is sufficiently strong and robust to successfully execute on its mandate.

Despite the low-growth environment in which the country has found itself over the past few years the PIC has consistently produced solid returns for its clients and in so doing is mitigating the risk of government needing to step in to fund shortfalls in civil servants retirement obligations.

This is an important achievement with which I'm proud to be associated.

10 Minister I would urge as the shareholder representative of the PIC to act swiftly to introduce stability and to restore public confidence .in the PIC. My experience at the PIC has led me to consider various interventions that I believe could strengthen the institution and I would be happy to share these observations with you if you should so wish.

One of the key issues undoubtedly is around enhancing governance within the PIC. In this regard you may wish to consider strengthening the Board of the PIC with more individuals with the requisite experience and skill to help guide the organisation to better navigate its challenges and to further improve its performance.

20 Another critical issue is the investment decision making framework in particular the Delegation of Authority for approval of transactions which requires urgent review. It has been an honour and privilege to serve as a director of the PIC and I sincerely thank you for giving me the opportunity to do so. I wish you all the best in your efforts to strengthen good governance at the organisation.

Yours truly

Claudia Manning”

And I cc'd the Chairman of the Board, Mr Gungubele and the Acting Company Secretary, Deon Botha.

**ADV JANNIE LUBBE SC:** Thank you doctor. If I can then conclude I would like you to comment on certain of the matters raised in the Terms of Reference of this Commission and I refer Mr Commissioner to the Terms of Reference paragraph 1.1 and my question is can you comment on what is stated in 1.1 namely whether any alleged impropriety regarding investment decisions by the PIC in NUDA reports in 2017/18 contravened any legislation, PIC policy or contractual obligations and resulted in any undue benefit  
10 for any director, employee or any associate or family member at the time.

**MS CLAUDIA MANNING:** No I am not aware of any.

**ADV JANNIE LUBBE SC:** Can you comment on whether any PIC director or employee used his or her position or privileges or confidential information for personal gain or to improperly benefit another person?

**MS CLAUDIA MANNING:** I am not aware of any.

**ADV JANNIE LUBBE SC:** Do you know whether any legislation or PIC policies concerning the reporting of alleged corrupt activities and the protection of whistleblowers were not complied with in respect of any alleged impropriety referred to in paragraph 1. In this regard I am specifically referring to those allegations regarding  
20 the CEO and CFO of the organisation?

**MS CLAUDIA MANNING:** No.

**ADV JANNIE LUBBE SC:** And important matter that was raised and I would like your comment is whether the approved minutes of the PIC Board regarding discussions of any alleged impropriety referred to above are an accurate reflection of the discussions and the Board's resolution, in other words in your experience was there any tampering

of minutes that you can testify about?

**MS CLAUDIA MANNING:** There was no tampering of any minutes to my knowledge.

The Board did review minutes and made changes to drafts but it was by the entire Board and the changes from the original draft which is done in the normal course of any Board approving minutes of previous meetings was done with the full consent of the Board.

**ADV JANNIE LUBBE SC:** Can you comment whether the investigations into leakage of information and the source of emails containing allegations against senior executives were justified?

10 **MS CLAUDIA MANNING:** Yes.

**ADV JANNIE LUBBE SC:** They were justified?

**MS CLAUDIA MANNING:** Yes.

**ADV JANNIE LUBBE SC:** Thank you. Do you know whether any confidential information of the PIC was disclosed to third parties without the requisite authority, or in accordance with the Protected Disclosures Act of 2000?

**MS CLAUDIA MANNING:** When the James Nugu emails were first sent out in 2017 there were several transaction documents that were confidential, that were leaked during that period.

20 **ADV JANNIE LUBBE SC:** The last issue is whether the measures that the PIC has in place are adequate to ensure that investments do not unduly favour or discriminate against a domestic prominent influential person as defined in Section 1 of the Financial Intelligence Centre Act, an immediate family member as contemplated in Section 20H(2) of the Financial Intelligence Centre Act of a domestic prominent influential person and lastly known close associates of a domestic prominent influential person?

**MS CLAUDIA MANNING:** The PIC has a policy on conflict of interest which has – is

frequently updated and I believe that it does address these issues. It also has a policy on politically exposed people, which again is reviewed by the Social and Ethics Committee I believe and by the directors of FAIS Committee and so I think that certainly the policies are in place to manage these issues.

**ADV JANNIE LUBBE SC:** Lastly can you comment whether mutual separation agreements concluded in 2017 and 2018 with senior executives of the PIC complied with internal policies of the PIC and whether payouts made for this purpose were prudent?

**MS CLAUDIA MANNING:** Matters involving executives are not generally dealt with by  
10 the Board or by any of the Committees so I'm not familiar with the details, I have read it in media reports about the extent of the payouts and at one point I believe the CEO did give an indication that a settlement had been reached with the head of the IT Department, and I assume that they were done in accordance with PIC policy.

**ADV JANNIE LUBBE SC:** Thank you Mr Commissioner, that concludes – sorry there's a question.

**CHAIRPERSON:** Questions?

**MR EMMANUEL LEDIGA:** Yes, I will ask a few questions and since you are I think you can actually help the Commission you know to navigate some of the issues. In your letter you mentioned that you could tell the Minister how he can strengthen the Board,  
20 you know, the first question from there, because this is in our Terms of Reference, where do you think the Board was deficient in many ways, as a first question. The second question is do you think the Board was well-functioning? You know this is part of our Terms of Reference. Those are the first two questions and then I will come back.

**MS CLAUDIA MANNING:** In my statement when I referred to page 6 on the observations and recommendations about what can be done to enhance the Board it

was exactly those issues that I was thinking about when I mentioned this in the letter to the Minister.

**MR EMMANUEL LEDIGA:** Which ones?

**MS CLAUDIA MANNING:** It's on page 6 when I had been asked by the evidence leader to comment on my experience of sitting on the Board, and I said I had the following observations and I've made three or four points there, those really are the issues that I think are – would be my – if the Commission was asking you know what my view were these would be ways I think we could enhance the effectiveness of the Board.

10 **MR EMMANUEL LEDIGA:** These three points which you mention here?

**MS CLAUDIA MANNING:** Yes.

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

**MS CLAUDIA MANNING:** On the well-functioning of the Board I am sorry to say that I don't think that it did, I think that the divisions that arose in the 2017 period continued until the time of my departure and it created an environment that I think really was not the most healthy for an institution to function and I – I mean it's – I've said a lot about this, I think that it was a fairly fractured Board.

**MR EMMANUEL LEDIGA:** Just the way – I mean were there factions within the Board? Did you feel that there were some sections saying this, some saying that, I  
20 mean were there factions, as we understand them in the political field?

**MS CLAUDIA MANNING:** If you give me a moment I am going to think about how to answer that.

**MR EMMANUEL LEDIGA:** Let me come to my second question. You know people in the media you know have been saying that the CEO, Dr Matjila, had a hold on the Board. What was your sort of experience with that, would you like to confirm that or

deny that, that there was a feeling that there was a hold by the CEO on the Board?

**MS CLAUDIA MANNING:** I mean I find the suggestion that we were all under the control of the CEO quite offensive, you know most of us are professionals who have a reputation that we like to keep, hopefully secure, and so certainly I can speak for myself and say that under no circumstances did I ever feel like the CEO was controlling me or any other member of the Board, and as I've said we had frequent disagreements about many issues, and I think that there was a healthy level of respect between the CEO and most members of the Board and certainly I had no trouble expressing when I had different views to him on whether it was on transactions or on policy or on governance  
10 issues.

**MR EMMANUEL LEDIGA:** So you were quite happy that the Board was dealing with him like quite robustly without kowtowing to him?

**MS CLAUDIA MANNING:** I mean Commissioner, just if one looks at just the two transactions that I've referred to today, the IO transaction and the Saga Mantla transaction, those were two transactions brought by management and typically when management brings a transaction to a committee it's supported by the CEO and in fact defended by the CEO, that is the practice in most financial institutions, and as you've seen from my evidence today there was extremely robust debate and very frank views expressed about, some members of the committee's views about whether this indeed  
20 was a commercially sensible transaction into which the Board should have entered, without any fear of the CEO or fear of any consequence.

**MR EMMANUEL LEDIGA:** Next question, just in terms of political pressures you know as you said like Trillineaux is writing to you guys and all that, do you feel that the PIC had an effective policy in terms of you know politically sort of exposed persons and all that, do you think the policy was quite effective and it's part of our Terms of Reference?

**MS CLAUDIA MANNING:** Commissioner I haven't reviewed the policy for a long time, I mean I probably last reviewed it several months before I resigned, so that's probably a year ago, but when I last looked at it, it seemed to me to be well designed and I certainly didn't pick up anything that I thought was a gap, but perhaps it would be worthwhile for the Commissioner to relook at it and perhaps to benchmark it against best practice both in South Africa and globally given the environment in which we operate both in South Africa and globally with politically exposed people.

**MR EMMANUEL LEDIGA:** But you never saw at some point where people went beyond the policy, you know it's one thing to have the policy but it's another for people  
10 to act within the policy because of the heavy pressure that they get under.

**MS CLAUDIA MANNING:** The teams were very diligent if they ever presented transactions to us in identifying politically exposed people, so I do believe that the policy was effective in that I don't recall a transaction where we were not aware of a counter-party who was politically exposed.

**MR EMMANUEL LEDIGA:** Alright, the final question from me, and then the answer to the other question which I asked, it's you know people have been saying that staff has been victimised, bonuses have been like reduced, which we know because the bonus pool was down. Did you come across that as a Board member or within your committees that there was victimisation and that others didn't get the bonuses that they  
20 deserved?

**MS CLAUDIA MANNING:** I didn't – I don't serve on the HR committee so I am not familiar with the details of the size of the bonus pool and what happened with it, but I assume that the members of that committee would have been diligent in ensuring that whatever agreement or whatever decisions have been made about the size of the pool would have been implemented by the executive, I have no knowledge and it would be

speculative for me to even begin to say anything about this.

**MR EMMANUEL LEDIGA:** The victimisation, any thoughts?

**MS CLAUDIA MANNING:** I mean the allegations of victimisation emerged mostly in the James Nugu emails, and they were I mean they were – it said the CEO discriminates against people and the CFO you know victimises people, but it was a very general allegation and it was hard to work out you know how would one verify this information, unless people came forward, so no I don't have any detailed knowledge of that other than those emails.

**MR EMMANUEL LEDIGA:** My other matter?

10 **MS CLAUDIA MANNING:** If you give me one moment to just think for a second please.

**MR EMMANUEL LEDIGA:** Okay thanks.

**MS CLAUDIA MANNING:** I mean I am no longer a member of the Board and I don't want to be casting aspersions on any member of the Board but if you want to call it factions there were very strong views about very contentious and a very difficult issue around the allegations against the CEO and a line was drawn in the sand in 2017 and people took strong views on either side of that line, and I suppose you could call those – you now that factions had developed in the Board which affected the normal business of the organisation as well.

20 **MR EMMANUEL LEDIGA:** Thank you.

**CHAIRPERSON:** Just one question, the proposals for investment transactions brought by management can you remember any one of them being rejected by the IC of the Board?

**MS CLAUDIA MANNING:** Commissioner plenty. If you allow me to go through my minutes I can send you a list from my minutes to the evidence leader, but many, many,

many. It was as I said there were robust discussions about the merits of individual transactions throughout my time and of course management was often very disappointed when we declined transactions but it was a frequent practice and it wasn't, it happened you know sufficient times and I will provide you with a list of those that I have minutes of.

**CHAIRPERSON:** I will appreciate that.

**MS CLAUDIA MANNING:** And in addition the number of transactions would have been approved where individuals would have noted their objection but the majority view was to approve.

10 **MR EMMANUEL LEDIGA:** Just a final question or ...

**MS GILL MARCUS:** You raised quite often throughout your statement the question of governance and there are two elements that I would like your comments on, given the size and your concerns around the IO transaction, was there a discussion between on the Board whether there had been notwithstanding the allegation of authority discussions with your major client, the GPF, whether there had been briefings and interactions with them. As a Board did you ever interact with the GPF as a matter of courtesy, exchange of views, keeping them aware and picking up any of their concerns? And then the second thing that I don't quite follow is my understanding of a Board function is the overview of all matters, whatever the sub-committees are, so you  
20 will have an investment committee or an HR committee, the HR committee may deal with the HR structure, the HR Department would deal with the bonus pool for instance but you will have a Human Resource report to the Board and a bonus payment, senior vacancies, the extent of vacancies in the different sections, different departments of the PIC. Those are the things that I would have thought are routinely brought to the attention of a Board to say our concerns around HR, the question around staffing and

the bonus pool shrinking, our Board must be generally, a Board's job is the overview and the governance and the functioning of the organisation as a whole, and therefore, although you sit on sub-committees, that are functional effective sub-committees whether it's the directors' affairs or the Investment Committee do any of those matters about governance relationships with your major clients, HR matters, because in each one you have indicated that you are aware of it and yet as a Board member I would assume at the minimum you would know the bonus pool is reducing and staff are going to be unhappy, or that you've got suspended - half your executive is suspended and in some departments it looks like there are serious, serious vacancies for some period of

10 time, those matters would affect the governance, the functioning and the effectiveness of management. So to what degree was there a Board functionality, you've indicated a dysfunctional Board, but were these matters then – because these are matters that should cover, or should not be affected by a partisanship about the CEO. How was that dealt with because from your evidence it seems to me that the Board did not address those things in a manner that enabled all its non-executive directors to be familiar with the function as a whole.

**MS CLAUDIA MANNING:** If I can start with the last question, so yes the Board does received detailed reports from all of the different subcommittees and so we would be aware of issues around bonuses *etcetera*. The disputed bonus that was the subject of

20 the Nogu, James Nogu e-mails was referring to several years ago it wasn't last year, I think it was, I'm actually not, I don't recall I don't want to speculate but it was for at least two years ago and so I don't recall what the details were. But the Board would have been made, completely been made aware of what the size of the pool was, whether it had been reduced, I just I don't recall personally because it was some time ago. It may

even have referred to a bonus year that I was not even part of the Board and that's the reason I'm not familiar.

But yes, the Board does receive all committee report backs. I would point out though that the last, between September 2017 and the time that I resigned a great deal of Board attention was placed on managing the crisis and much less attention on the normal business of whether its bonuses or IT security or other issues they were dealt with I think very effectively by the Board subcommittees but often by the time the Board Meeting happened there wasn't sufficient time to interrogate all of the details because the Board was really spending a great deal of time in trying to address these  
10 issues and that's in the time that the Board was meeting remember that there were several periods where there was a kind of a gap between when the Board was not meeting in that last sort of year and a bit of my time at the Board.

On the first matter on the GPF there were frequent interactions between the GPF and the PIC. I can't recall in 2018 I think there, if you give my one moment I will see if I can find the date but there were frequent interactions, there you go, on the 16<sup>th</sup> March was the last interaction that I was part of where the GPF made clear their concern that there wasn't alignment in the decisions that the PIC was making between what they required and what the PIC was doing. And so there was an agreement that the PIC would review its structure, one of the issues that the GPF was very firm about  
20 was that it was necessary for the position of Chief Investment Officer to be recreated, that position no longer existed in the new organogram and the GPF was very firm that it required the PIC to change that. So that was one of the issues. They had also, the GPF had also sent a letter, I think it was in the course of 2017 but I stand to be corrected on the date, requesting that any investment above R2 billion should go to the GPF for approval. I'm afraid I cannot recall if this referred to listed and unlisted

investments or if it was just referring to unlisted investments.

As far as I'm aware the Ayo transaction was not referred to the GPF but I stand to be corrected on that. As I said we were not involved and so I'm not familiar with whether or not management would have gone to the GPF but at the meeting in March which remember was post the Ayo transaction being effected, they re-emphasised the need for transactions above R2 billion to be brought to them for approval.

**MS GILL MARCUS:** Do you know if that was done at all thereafter from March in any areas of investment?

10 **MS CLAUDIA MANNING:** I am not familiar Commissioner, I could check my notes, I am not sure that there were deals done of that size in the three months post that period but I can check from my notes and come back to you.

**MS GILL MARCUS:** But perhaps Adv Lubbe we can find out about that because that would be something that's material ... (intervention)

**ADV JANNIE LUBBE SC:** It's noted.

**MR EMMANUEL LEDIGA:** I need to check something on the Government Pension Fund the GPF, what is, how does the PIC work you know how does the Government Pension Fund work through you know through the PIC, is that through a mandate process or do they hold meetings, how does you know, and does the GEPF have power  
20 on the PIC in terms of you know they could go to the Board and say we want so and so fired, you know what are the powers of the GEPF with regard to the PIC? It's one question which came up yesterday and how do they work, I mean is that their mandate process where it's just the Investment Committees Meetings or there are other mechanisms if you could give us some light on that please?

**MS GILL MARCUS:** Can I add to that?

**MR EMMANUEL LEDIGA:** Hmm

**MS GILL MARCUS:** The question that came up that we haven't had an answer to yet is whether there is a compulsion legal or otherwise for the GEPF to only invest through the PIC?

**MS CLAUDIA MANNING:** Okay so the arrangement between the GPF and the PIC is that mandate agreements are signed. The GPF indicates what investments it would like the PIC to invest in within those broad mandates and the PIC then has the flexibility to make those investment divisions and the GPF does not get involved in the ultimate decision-making. The letter which indicated that they wanted to approve transactions  
10 above R2 billion was a slight change to that mandate because that had, as I recall, not been the case up until then. Once, I understood that once a mandate agreement was signed with the specific requirements for how those investments are made within the mandate that the PIC was then free to make whichever individual investment decisions that it wanted.

**MS GILL MARCUS:** Sorry could I just follow-up, did that not trigger an alert to the Board that the GEPF was expressing concern otherwise it would not have taken that measure that there's unhappiness from the GEPF?

**MS CLAUDIA MANNING:** We certainly understood it Commissioner and so the meeting of the 16<sup>th</sup> March I mean the GPF I think indicated that it was not in their rules  
20 or not in the mandate agreement but that they ... Excuse me I'm just reading my notes. So what they indicated was that this letter of the R2 billion would stand until the GEPF changes its mandate to formally include this provision of the R2 billion and it was clear to us that there was a level of unhappiness by the GEPF and I think that was partly because of the media attention on the PIC and commentary about deals that had been entered into which they had some level of discomfort about. The Board took it very

seriously and so when, at the point that I resigned I believe that the HR Committee was revising the organogram to ensure that the requirement for the position of a CIO was created in the new organogram.

**MS GILL MARCUS:** But did the Board have a meeting with the GEPF, initiate a meeting with them?

**MS CLAUDIA MANNING:** So my, as I said my last meeting with the GEPF and the Board was on the 16<sup>th</sup> March and I resigned three months later so I'm not quite sure if further meetings over the course of last year.

**MS GILL MARCUS:** ... the timeline right, the letter, the date of the letter, do you have  
10 the date or the month of the letter?

**MS CLAUDIA MANNING:** Unfortunately I don't but I can ... (intervention)

**MS GILL MARCUS:** It's just to indicate when the letter was received and what period of time by the time you resigned had elapsed before so that you as a Board Member would have known if there had been such a meeting. So what was the timeline from receipt of the letter to an engagement by the Board with the GEPF if at all?

**MS CLAUDIA MANNING:** I'm afraid I cannot recall but I can come back to you on that. The question of whether the PIC, whether the GPF had a, whether there was any requirement I'm not familiar with the GPF rules. As I understand it there is no legal requirement to invest solely in the PIC and as I understand it I don't think that the GEPF  
20 does invest solely through the PIC. I don't know the details but I believe that the GPF has entered into mandates with other companies, private asset management companies, I'm not sure what the volume of that is, what the scale is. Of course the vast majority of its funds are invested through the PIC but as I understand it they do have the flexibility to use other managers should they chose to do so.

As far as Board Members, you asked about Board Members, there is no – I

don't think that the PIC, that the GPF has any authority to appoint members of the Board of the PIC. I think that authority rests entirely with the Minister of Finance in terms of the PIC Act.

**MR EMMANUEL LEDIGA:** You mentioned that you got, there are some transactions which you declined and everything, can you give us a sense of how many transactions typically your committee looked at per annum and maybe a certain percentage about decline rates just to get some sense of that?

**MS CLAUDIA MANNING:** Commissioner I would love to cooperate but I don't want to give you the wrong answer.

10 **MR EMMANUEL LEDIGA:** Yes please.

**MS CLAUDIA MANNING:** I mean I probably attended several dozen Investment Committee Meetings in that two and a half years on the Board. With your indulgence if I could consult my notes and come back to you with an answer.

**MR EMMANUEL LEDIGA:** Can you please yes, and sort of the acceptance rates and all that please?

**MS CLAUDIA MANNING:** I will require, I may require the secretariat ... (intervention)

**MR EMMANUEL LEDIGA:** To assist.

**MS CLAUDIA MANNING:** The PIC secretary to assist but I will ask the evidence leader to help me if I need that help.

20 **MR EMMANUEL LEDIGA:** And then the final question from me is on the bonuses, the investments you know people at the PIC do they get bonuses based on the number of transactions that they do or you know maybe size of the transactions or number or they get given something different?

**MS CLAUDIA MANNING:** The ... (intervention)

**MR EMMANUEL LEDIGA:** Would you know?

**MS CLAUDIA MANNING:** Sorry all staff have performance management systems, balance scorecards *etcetera* and that's done at the level of the corporate to individual departments to individuals and so that's – so bonuses are dependent on meeting a whole number of different performance standards including transactions but certainly not only transactions it's influenced by a wide range of different performance indicators.

**MR EMMANUEL LEDIGA:** Okay ja so it's within a broader balance scorecard and all that?

**MS CLAUDIA MANNING:** Ja.

**MR EMMANUEL LEDIGA:** Okay thanks.

10 **ADV JANNIE LUBBE SC:** Mr Commissioner can I just ask a ruling from the Commission?

**CHAIRPERSON:** Sure.

**ADV JANNIE LUBBE SC:** The witness has agreed to cooperate whatever we need from her, will it be acceptable if she does so in the form of an affidavit dealing with the outstanding matters without trying to limit the Commission's right to recall her at any time but I would suggest that those are not contentious matters and that she can deal with statistical issues in the form of an affidavit?

**CHAIRPERSON:** Yes I think she should be entitled to do that but we might as a result of what is contained in the affidavit call her back to come and testify again.

20 **ADV JANNIE LUBBE SC:** Thank you Mr Commissioner we accept that. And can I just last, coming back to all the questions asked, this is my last one I promise, in your experience on the Board and the IC was there any transaction done within the timeframe of Ayo where everything was done and signed off in about less than a month?

**MS CLAUDIA MANNING:** I'm sorry I'm not sure I understand your question?

**ADV JANNIE LUBBE SC:** Is there any other example that you can recall where an investment was done in the short period as in the Ayo transaction where it was introduced to the Listed Investment Department and signed off and approved in about a month?

**MS CLAUDIA MANNING:** I really am not able to comment on that because as I said listed investments have a completely different delegation of authority and the process that they follow, the process we would have very little oversight over as an Investment Committee. Typically unlisted investments were much, much longer but I really don't have enough information to be able to say if this was the timelines here were typical or  
10 not but I mean I would assume that the evidence leader would be able to look at a sample of transactions done by the listed team in a particular period of time and to be able to establish whether this was you know particularly quick or it was done you know as a fairly normal timeline.

**ADV JANNIE LUBBE SC:** Thank you. Mr Commissioner that concludes the evidence and it also concludes the business of the day. There are other logistical problems that we need to attend and it is just not possible to present further evidence today. We will proceed again tomorrow at 10 to present evidence and I would therefore request an adjournment till 10 o'clock tomorrow morning.

**CHAIRPERSON:** Yes thank you. Dr Manning thank you so much for availing yourself  
20 to come and testify in this Commission and I trust that your appearance here and your preparedness to testify will encourage other people also in the corporate world to come forward, those people who have information relevant to the terms of reference will come forward and testify as well. So thank you very much. And just before we adjourn I want to just repeat the invitation that I made the other day that if there are any people, anyone with information relevant to the terms of reference of the Commission should

please come forward and give evidence before us or put the information before us.

Thank you.

**MS CLAUDIA MANNING**: Thank you.

**CHAIRPERSON**: We shall then adjourn until tomorrow morning at 10 o'clock.

**INQUIRY ADJOURNS TO 30 JANUARY 2019**