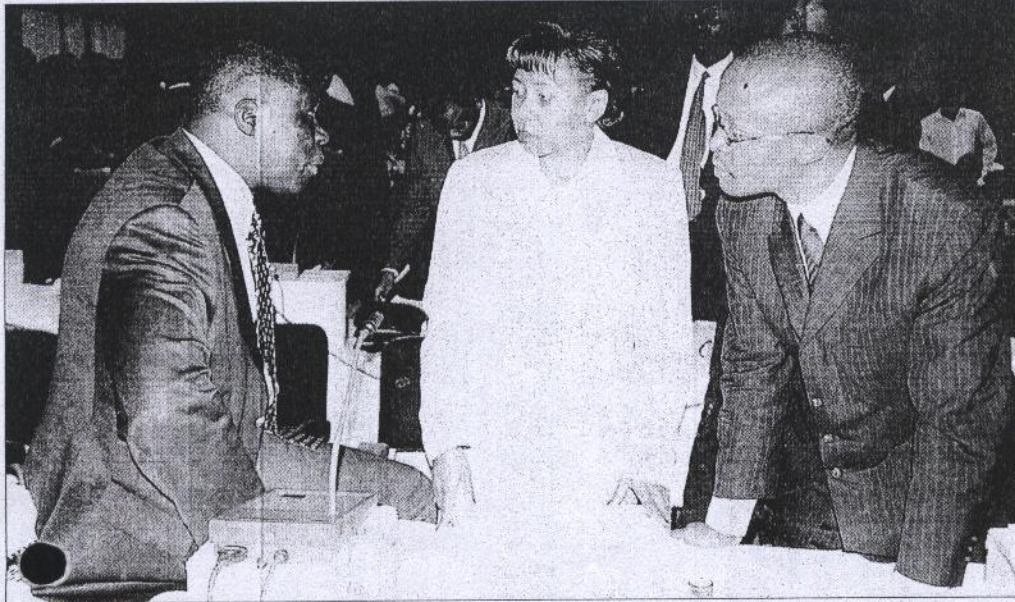


Firm got Shs 115m for Biwott case



Lawyers Fred Ojiambo (left), Agnes Murgor and Cecil Miller share a word during a break at yesterday's proceedings - JOHNSON NJENGA

List of creditors a sham - Kotut

By PAUL MUHOHO

FORMER Central Bank of Kenya (CBK) governor Eric Kotut yesterday dismissed as a sham a list of creditors of the collapsed Pan African Bank since its audited accounts have never been disclosed.

Subsequently, Kotut, ex-cabinet minister Arthur Kinyanjui Magugu, Soin Development associated with former cabinet minister Kipng'eno arap Ngeny and Libra Holdings, denied owing any money to the defunct political bank.

Kotut asserted that the sudden death of the commercial bank's founder and ex-chairman, the late Mohamed Aslam, on November 18, 1991, and adverse publicity resulted in heavy withdrawals by account holders and unauthorised overdrafts at the CBK.

Only audited accounts of the bank could present the true picture of indebtedness by creditors by December 31, 1991 since it was subsequently placed under statutory management by the CBK in 1993 to protect its depositors. Kotut told the judicial commission of inquiry investigating the monumental Goldenberg scandal.

He admitted that the provisional list of creditors dated January 9, 1992 was inaccurate since it had been submitted to the CBK banking supervision department for routine house cleaning purposes. The document had never been authenticated and its contents were suspect, Kotut claimed.

He admitted having chaired a meeting of the Deposit Protection Fund board on January 6, 1992 when a rescue

recommendation that it withdraw its involvement in the construction of the five-star Grand Regency Hotel in Nairobi by Uhuru Highway Development.

He conceded that he had borrowed an unspecified amount of money from Pan African Bank in April 1990 to start his flower-export business Karen Roses, but cleared it through an external loan. He denied owing the bank Shs 13 million by December 31, 1991.

At this juncture, lawyer Cecil Miller, who has been retained by the DPF to represent liquidators of collapsed political banks, said he was awaiting a complete list of Pan African Bank creditors. He urged the Goldenberg Inquiry to assist DPF to recover all outstanding debts.

Lawyer Violet Baraza, who was cross-examining Kotut, produced documentary evidence to show that Soin Development had obtained a Shs 60 million loan from Pan African Bank in 1989 but repaid nearly Shs 72 million in 1992.

The firm is associated with Ngeny, the former minister for water development, the former managing director of the defunct Kenya Posts and Telecommunications Corporation and former Ainamoi Kanu MP in Kericho district.

Lawyer Chege Wainaina similarly produced documentary evidence to show that Magugu and his wife Margaret Wairimu had been advanced Shs 6 million on November 3, 1987 but repaid Shs 6,798,413 following a civil suit against Pan African Bank.

Magugu previously served as the finance and commerce and industry minister. He is the MP for Githunguri in Kiambu district. Chege had embarked on

lawyer disclosed that former president Daniel arap Moi and former comptroller of State Houses Abraham Kiptanui were among directors of Pan African Bank. Kotut admitted that DPF, an arm of the CBK, was founded in 1986 to protect depositors and banks after Kenya's unprecedented banking crisis "when financial institutions collapsed like dominoes".

According to the list of creditors, Magugu reportedly owed Shs 13 million to the fallen financial institution.

Similarly, Libra Holdings, whose directors are R. Prinjia and A. Sava, admitted having obtained a Shs 20 million loan from Pan African Bank in March 1990 for the construction of Libra House, along Nairobi-Mombasa Road, but repaid the money through a loan from the East African Building Society in 1992.

Meanwhile, Goldenberg inquiry chairman Samuel Bosire, vice-chairman Nzamba Kitonga and commissioner Peter Le Pelley said yesterday they required evidence from a senior Kenya Commercial Bank (KCB) official to explain procedural payments from government accounts held at the CBK.

Appeal Judge Bosire said former KCB general manager Elijah Arap Bii was not helpful to the inquiry during his testimony because he was a suspect in the fraudulent transfer of the Shs 5.8 billion from treasury's paymaster general's account held at the CBK to Goldenberg International's account held at the KCB.

The chairman recalled that Bii's testimony hinged on verbal instructions reportedly issued to him about the transfer of the money by former treasury

International's executive chairman Kamlesh Pattni.

He will continue with his evidence when the deliberations resume this morning.

By JOSHUA SHITIKHO

A PROMINENT city law firm was paid Shs 115 million as legal fee in a civil suit involving former cabinet minister Nicholas Biwott's company and Trade Bank.

The firm, whose directors Shirin Ismael and Akber Ismael, owned shares in Yaya Towers, is linked to the Keiyo South legislator.

Lawyer Cecil Miller, acting for Deposit Protection Fund (DPF), lamented that the directors of the law firm represented themselves in the suit and further charged a legal fee in the scale of the advocates.

Miller urged Goldenberg Commission chairman Samuel Bosire, vice-chairman Nzamba Kitonga and commissioner Peter Le Pelley to recommend that the monies paid to the firm be recovered by DPF.

Commission lead counsel John Khaminwa, assisting counsel Waweru Gatonye and lawyer Fred Ojiambo also joined the fray and wondered why the legal fee was that exorbitant.

"My lords, the law firm was involved in the civil case that involved Yaya Towers and Trade Bank," Miller told the commission while cross-examining former Central Bank of Kenya governor Eric Kotut.

Bosire wondered why the

firm charged a legal fee and yet it was its core shareholder L Z Engineering that had a dispute with Trade Bank. "They were the shareholders. The company appears to have split down the middle. It brings to question whether the payment of Shs 115 million was really justifiable," Bosire said.

"Here is a shareholder who is also a litigant being paid on the scale of advocates," Bosire said and directed Biwott's lawyers to shed light on the circumstances behind the hefty payment.

Khaminwa said the money paid to the firm was part of the Goldenberg money being traced by the commission. "If he was a party, he was representing himself. Then the whole thing was wrong," Miller said.

The lawyer sought to know from Kotut, who chaired the DPF meeting that recommended the release of Shs 600 million, whether Yaya Towers surrendered the prestigious building for security purposes.

Kotut said Yaya Centre was not an issue for DPF board in relation to the loan in accordance to the provisions of the Deposit Protection Fund Act.

"So you were releasing the money for an illegal purpose?" asked Miller, to which Kotut replied: "No, my lords."



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