

GOLDENBERG INQUIRY DAY 173

for export promotion, inquiry told

Ojiambo: And that is why you distanced yourself from it otherwise it was very unusual not to make sure that everything was alright?

Riungu: No my lords. May be there were other reasons which I can also put to you.

Ojiambo: Other reasons for doing what?

Riungu: For calling me and giving me instructions on the payments my lords.

Ojiambo: What are the reasons?

Riungu: I was being framed up, my lords.

Ojiambo: In what sense?

Riungu: In the sense that I am Riungu who ended up in Kamiti, I am Riungu who ended up in courts my lords.

Ojiambo: But you could have forwarded the letter properly so that nobody would come up to say Riungu you knew something otherwise as you stand there, it is very difficult for me to think that you did not do anything.

Riungu: The wrong judgement.

Ojiambo: Did you write to the Treasury on what was happening?

Riungu: Why would I write to them when they were the ones who were giving instructions?

Ojiambo: After the record.

Riungu: I did not because I did not suspect that this would amount to what it is today my lords.

Ojiambo: Did you confirm from the minister whether this payment ought to have been made?

Riungu: My lords, that would not be my concern.

Ojiambo: So would you confirm that on the opening up of the foreign accounts with Banque Indosuez Aval and American Express, is it not true that this was a matter solely by CBK?

Riungu: To the best of my knowledge my lords, it was solely the Central Bank.

Ojiambo: Did you see anything from the ministry?

Riungu: I did not see anything outside the bank my lords.

Ojiambo: This ought to have been a matter that the ministry ought to have been involved in, is that not so?

Riungu: I would say perhaps because if it was Riungu who was handling it, I would have handled it differently.

Ojiambo: Such matters should have been brought to the attention of the Minister for Finance, did you do that?

Riungu: No my lords. I never dealt with the minister.

Ojiambo: Ultimately the Minister for Finance is responsible for the finances of this country. Should he not know about the use it affects us? Is that not so?

Riungu: My lords, I do not know.

Monari: My lords, perhaps the difficulty is that the witness is being asked about matters that do not concern him. These answers can be given by Mr Ojiambo's client. He's alive and well.

Bosire: Continue.

Ojiambo: Thank you my lord. Mr Riungu you know that it is the minister who has to answer for any arrangement in Parliament regarding any arrangement which has been made.

Riungu: He is the one.

Bosire: When is Central Bank supposed to either consult or inform the minister on certain deals like the one involving Banque Indosuez.

Riungu: It is discretionary my lord.

Ojiambo: Is it? Kindly turn to Exhibit 107 A page 82. That's the Exchequer and Audit Act. Kindly read Section 3.

Riungu: The minister shall, subject to this Act, have the management of the Consolidated Fund and the supervision, control and supervision of all matters relating to the financial affairs of Kenya which are not assigned to any other minister by any other Act.

Ojiambo: So, it is the minister's responsibility?

Riungu: That is what the law says.

Ojiambo: And so any act that is done by the Central Bank or its officers which affects the affairs of public finance would have to be brought to his atten-

tion. Do you not know that?

Riungu: I said it is discretionary.

Ojiambo: Was it not your duty to inform the minister of the intention to enter into these agreements whose sole purpose was to lie, cheat and mislead the Bretton Woods institutions?

Riungu: It was not my duty, it was that of the Central Bank.

Ojiambo: Is there something called the Central Bank other than the people who worked there?

Riungu: There is the corporate CBK.

Ojiambo: But CBK acts through its officers, including you. Was it not your responsibility to draw the attention of the minister these agreements which were intended to cheat.

Riungu: It was not my responsibility.

Bosire: As deputy governor, you were the governor's assistant. Did you assist him by drawing to him the provisions of the law which requires that the minister for finance be in the picture?

Riungu: No my lords.

Bosire: Nor can you say that it was your responsibility. Everyone at the bank had the responsibility to advise the governor.

Riungu: Yes my lords, if it came to their attention.

Ojiambo: And the reason you did not tell him is that you thought that the whole thing was harmless?

Riungu: Yes my lord.

Ojiambo: So lying to these people was harmless?

Riungu: The word lying

Ojiambo: It is lying. Fictitious. Letting people have an impression which is not really true.

Riungu: That is correct.

Ojiambo: So you were engaged in a conspiracy of lying.

Riungu: I was not.

Khaminwa: Mr Riungu you knew that this was lying in national interest. Did it occur to you that you should inform anyone else that there was to be lying in national interest?

Riungu: I reported to my boss. How he reported elsewhere my lords, I do not know. I said that it is at the conception of the scheme that I was asked to listen and tell the governor what I understood. That is what is in record. What is coming up is what I should have done. I did not go saying that the minister should have been told.

Ojiambo: Did you know that the minister was asked to answer questions in Parliament as a result of this?

Riungu: I read it.

Ojiambo: Did it occur to you that you had put the gentleman in a very difficult situation.

Riungu: My lord, I had nothing to do with the Sh13.5 billion.

Ojiambo: You know that after that, they started signing spot contracts to cover this up.

Riungu: I know that.

Ojiambo: And it was not just about covering up from the IMF, money was being taken out.

Riungu: You are telling me.

Ojiambo: That's all my lords.

Kitonga: Mr Miller.

Cecil Miller for the Deposit Protection Fund: Are you aware that Exchange Bank went into voluntary liquidation.

Riungu: I'm aware that it went into liquidation at about July or August 1993.

Miller: Were you about to leave the bank?

Riungu: I had already left.

Miller: Are you telling this commission that you were not at all involved in the placing of this bank under voluntary liquidation?

Riungu: I was not.

Miller: But as former deputy governor, I'm sure that you can answer one or two questions regarding voluntary liquidation as opposed to liquidation under the Deposit Protection Fund.

Riungu: I can try.

Miller: Is there any advantage to be gained by a bank that goes into voluntary liquidation as opposed to plac-



Photo/Joseph Mathenge

Joint secretary George Kegoro (right) and lawyer Cecil Miller go through their files before yesterday's session at the Kenyatta International Conference Centre in Nairobi. Mr Eliphaz Riungu, witness No. 63, continued to be cross-examined on the 173rd day of the public hearing.

ment under liquidation by the DPF board?

Riungu: In voluntary liquidation, if the bank can demonstrate that it is solvent and capable of meeting its liabilities, then it can go into voluntary liquidation and nobody will go chasing it later on.

Miller: Any other advantage?

Riungu: Maybe if you suggest.

Miller: If a bank goes into voluntary liquidation, it means that the monitoring process of the liquidation is out of the hand of the DPF?

Riungu: That is correct.

Miller: And the liquidator can handle matters in a manner that is likely to be in favour of the bank as opposed to the depositors?

Riungu: That can happen.

Miller: And if a bank is placed under voluntary liquidation, it means that the DPF board is not in control. Is that correct?

Riungu: That is correct.

Miller: You became the deputy governor on February 24, 1992.

Riungu: That is correct.

Miller: And before that you were the chief banking manager from June 1990?

Riungu: Yes my lords.

Miller: Let me refer you to Exhibit 138 Q page 169. What is the date on that letter?

Riungu: It looks like April 1992.

Miller: Who was the chief banking manager?

Riungu: I was the deputy governor at the time.

Miller: Who took over from you?

Riungu: The office was vacant for a

while.

Bosire: It was said that you doubled as deputy governor and chief banking manager.

Riungu: I never. Every principal was taking care of his own division in the banking department.

Bosire: Who came after you?

Riungu: It was Mr Mumelo but he did not take over immediately. The office was empty.

Miller: For how long was it empty?

Riungu: I can't recall but Mr Njoroge was the principal in charge.

Miller: That document refers to a loan facility of Sh600 million to Trade Bank. It is requesting the chief banking manager to rediscount Treasury Bills and to credit the proceeds to the DPF account at Central Bank?

Riungu: Yes my lords.

Miller: Is it correct that in any transaction involving money at the Central Bank, the chief banking manager would be aware?

Riungu: Not necessarily. It could be within the purview of the principal or even an assistant principal.

Miller: Did you have distinction as to who would be involved with what kind of money or was it haphazard?

Riungu: At that time, it was haphazard.

Miller: During your tenure as chief banking manager were you aware that some banks were facing financial difficulties?

Riungu: Yes. I remember Pan African Bank, National Bank and Trade Bank.

Miller: Was any of these cases brought to you?

Riungu: Yes I was involved at least in a discussion. If I cast my mind back I think it was with the chief executives of the big banks, Standard, Kenya Commercial to try and syndicate a facility for some of those banks.

Miller: Did you ever write to the governor about it?

Riungu: Perhaps if you show me I would be able to confirm.

Miller: But were you aware that Trade Bank had problems?

Riungu: I do not recall clearly. I think it did.

Bosire: Did you write to the governor about Trade Bank problems?

Riungu: We discussed that.

Bosire: Did you discuss about loaning money to Trade Bank?

Riungu: Yes.

Bosire: How would you do it?

Riungu: The banks were going to put together some resources which would be repaid later.

Bosire: Was the money raised?

Riungu: Eventually, the banks withdrew from the syndication.

Bosire: Was it before or after you left as chief banking manager?

Riungu: I'm not able to recall the dates.

Miller: Read page 33 of the report by Bellhouse Mwaangi Ernst & Young.

Riungu: *Yaya Centre Development Ltd. The account was opened at the Valley Road branch on July 9, 1992. The Yaya Centre Development account belonged to Yaya Towers Ltd, 100 per cent subsidiary of Trade Bank Ltd. It was mainly used for the construction of the Yaya Towers apartments and hotel project. This account had been financed by pre-export bills from January 1993 to March 1993 when the scheme was closed by the Central Bank.

Miller: Stop there. Mr Riungu you were involved in the initiation of the circular that brought into being the pre-shipment finance.

Riungu: Yes my lords.

Miller: Is that your understanding of how pre-shipment was supposed to work?

Riungu: Certainly no.

Miller: Go on.

Riungu: "The bills discounted were in the names of Gawi Freighters Ltd, Wilgo Agencies and Air Maritime."

Miller: Stop and move to page 35 and that is called CBK bills discounted account. Please read paragraph two.

Riungu: "This account has been used to discount and mature pre-shipment bills relating to Air Maritime, Gawi Freighters and Wilgo Agencies. We have been unable to establish why these bills were credited to this account on discounting rather than the individual customer accounts. It is therefore assumed that the proceeds from discounting of these bills were not to help in exporting of goods but were utilised for other purposes."

Miller: Return to page 33. Which account is being referred to here?

Riungu: Yaya Centre Development Ltd.

Miller: And the money was used for the construction of Yaya Towers Apartments Ltd?

Riungu: Yes my lord.

Miller: And the bills discounted amounted to?

Riungu: Sh523 million.

Miller: What's your comment?

Riungu: It was absolutely wrong because the money was not used for the purpose for which it was intended.

Miller: Is the amount then recoverable?

Riungu: Professionally it would be recoverable.

Khaminwa: Mr Riungu, do you honestly want to tell this commission that you were used by evil men in this scheme?

Riungu: You are 101 per cent correct.

The inquiry was adjourned at 1.30pm and will resume this morning at 9am when Mr Riungu returns to give further evidence.