

GOLDENBERG INQUIRY DAY 186

taxpayers Sh25b, inquiry told

Amollo: Is it not correct that your evidence as far as Mr Suleiman Muringa is concerned arose from the matters as raised by Mr Waweru of Bell House Mwangi in Exhibit 138 X?

Ng'atuny: That's true my lords.

Amollo: The report also had some very harsh words to say about the foreign exchange department as appears at page 10 of Exhibit 138 X? Could you please read to the commission the matters in notes a, b, and c.

Ng'atuny: The department was ran in total disregard of banking principles. Each member of staff operated independently of others and internal checks were non-existent. Errors were made and not discovered on time due to poor controls, lack of reconciliation and inadequate follow-up.

Amollo: This is an indictment of the entire department?

Ng'atuny: That's correct my lords.

Amollo: Is there a bank supervision department at the Central Bank?

Ng'atuny: Yes my lords.

Amollo: Is its function among others, to ferret out things of this nature?

Ng'atuny: Yes my lords.

Amollo: Have you seen any report by the bank supervision department of the CBK mentioning these concerns?

Ng'atuny: The reports are there and they have brought out weaknesses in the bank besides what is pointed out.

Amollo: Once the supervision department inspects a commercial bank it prepares a report. Do you know what happens to those reports?

Ng'atuny: The reports are given to the management of the Central Bank and immediate corrective measures are expected to be initiated to address the weaknesses.

Amollo: That's all my lords.

Kiunga: Let's have Mr Miller then.

Cecil Miller for Trade Bank in liquidation: Could we go to Exhibit 145 H. Could you look at page five. Could you confirm that this is a letter from the firm of Kaplan and Stratton Advocates dated February 5, 1998 addressed to LZ Engineering Construction Limited and that it is signed by Mr W. S. Deverell?

Ng'atuny: That is correct.

Miller: Confirm that the reference is the repayment of the Sh600 million.

Ng'atuny: Yes it is.

Miller: Let me read it for you. "We have been instructed by Trade Bank in liquidation to demand payment of Sh600 million plus interest being money received by you from our clients in February 1992 in the circumstances found by Mr Justice Pall which *inter alia* renders you liable to repay the same."

Miller: That amounts to a demand letter for the Sh600 million?

Ng'atuny: Yes my lords.

Miller: Look at the same document on page 14. What is the starting date of that document?

Ng'atuny: July 7, 1992.

Miller: And this is the Yaya Development account number 569960?

Ng'atuny: Correct my lords.

Miller: Move on to page 27 at the bottom. You will see the final page of that statement and look at January 31, 1998. What is the amount claimed?

Ng'atuny: The amount as at that date was Sh193,206,939.85. On February 26, the closing amount was Sh195,684,223.20. In this case it is balance outstanding.

Miller: Go back to page five. The demand from Kaplan and Stratton is dated February 5, 1998. Would I be right in saying that the amount referred to in the letter of Kaplan Stratton of Sh600 million refers to a totally different account?

Ng'atuny: Correct.

Miller: Could you tell their lordships into which account the Sh600 million

went into?

Ng'atuny: If you refer to Exhibit 145 page 15. If you look at the distribution of the money, you will realise that the accounts of HZ, Trucks and Equipment, Ziba, Pan African Engineering, Mascon and Greenwood and the rest, was to Pan African Bank. The amounts reflected on the first column of page 15 are the overdrafts that the various companies had after the Sh600 million was disbursed. When you see the analysis of the Yaya Towers account which was given in Exhibit 145 B. This account shows entirely different transactions that have no relation with the Sh600 million.

Miller: On the same exhibit 145 H let's go to page 59. Confirm that that's a let-

ter from Okwac and Company Advocates, dated March 30, 1998 referring to the Sh195,684,223.20.

Ng'atuny: That is true my lords.

Miller: Please read paragraph one and two.

Ng'atuny: We are instructed by the Trade Bank liquidators as follows; In or about July 1992, you opened the above account for the development of Yaya Centre. Our client bank thus extended to you an overdraft facility for this purpose.

Miller: What is this account referred to as?

Ng'atuny: It is emerging that money had been lent through this account for the development of Yaya Centre and there-

fore this overdraft was outstanding at the time these instructions were given.

Miller: So this account 569960 is actually an overdraft account?

Ng'atuny: That is true.

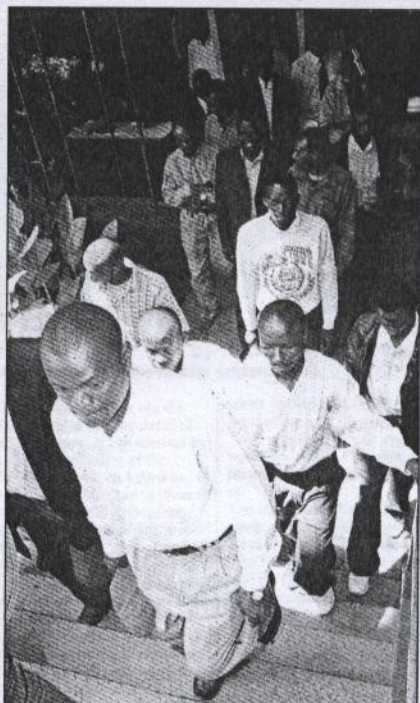
Miller: Let's move to 138 X page 33. You recall reading this. From the Bell House Mwangi report, it is clear that pre-shipment money was used for the construction of the Yaya Centre.

Ng'atuny: Correct my lords.

Miller: How much money went into the construction of the Yaya Centre disguised as pre-shipment funds?

Ng'atuny: From what I see here, there is an amount of Sh523 million.

Miller: Has it ever been repaid from what you know?



Photo/Thomas Mukoya

Top: Dr John Khaminwa, the commission's lead counsel (left), chats with witnesses Daniel Ngatuny, (right), Clement Nduru (second right) and Connie Gumo, a legal officer. Above: Commission chairman Mr Justice Samuel Bosire leaves at the end of yesterday's proceedings (left), as wananchi stream out of the inquiry hall.

Miller: Let's go to page 15 of your statement. How much was owed as at liquidation arising from the Sh600 million?

Ng'atuny: Between the DPF and Trade Bank, we had brought a figure of Sh1,328,731,542.80. This amount is the Sh600 million given by DPF to Trade Bank and the initial overdraft which was in Trade Bank which was in excess of Sh550 million. The two amount to Sh1.1 billion and the rest will be accrued interest.

Miller: Does this figure take into account include the Sh523 million mentioned by the Bell House Mwangi of the pre-shipment money?

Ng'atuny: It does not.

Miller: Should it be included.

Ng'atuny: This account of the Yaya Centre Development was operated by officers of Trade Bank. But because the funds went into the centre, it is part of the whole thing. This means that the money is owing. These were pre-shipment bills and that means that they are owing to Trade Bank and on to Central Bank.

Bosire: What is due to Central Bank and what is due to DPF?

Ng'atuny: We have worked out at the DPF. From the time the loan was given in 1992 at the rate of interest it was given, we have come up with a figure in excess of Sh9 billion.

Bosire: What about the pre-shipment finance?

Ng'atuny: It was Sh523 million and we can calculate the figure.

Miller: Would you do the same now?

Ng'atuny: The actual accrued interest can be calculated but that requires time. As I have mentioned earlier, we had done a simulation of the Sh600 million from the time it was lent to date as we were getting a figure of Sh600 million. I have used the same simulation because these are amounts which were graded around the same time and on a straight calculation, everything else being the same, I have come up with a figure of Sh7.8 billion in respect of the principal Sh523 million pre-shipment finance money. That would be payable to Central Bank.

Miller: For clarity, let us go through the figures again. What is the amount owing to Central Bank?

Ng'atuny: It is Sh7.8 billion.

Miller: And for purposes of the Sh500 million non-performing loan by the HZ Group?

Ng'atuny: If Sh600 million is Sh9 billion today, then the Sh500 million would be around the same figure and we will be talking of about the same figure. What is owed to Trade Bank and DPF would be between Sh18 billion and Sh20 billion.

After Mr Ng'atuny's testimony, Mr Clement Kinuthia Nduru, the liquidation agent for Trust Bank was sworn in.

Mr Nduru told the commission that Goldenberg's account at Trust Bank was operated by Mr Kamlesh Pattani, Mr Rohit Pattani and Ms Daksha Pattani.

Transactions in and out of the account during the above period, the commission heard, amounted to Sh1.6 billion.

Exchange Bank paid out more than Sh4.8 billion for the credit of 67 accounts held at the bank between June 1992 and September 1993.

Mr Nduru told the commission that some of the recipients lacked proper identification and their accounts only went by names such as A.L.F.A.R. GLOCK, Merc, Ping, Rugger and Titi-est.

The witness is expected to wind up his testimony this morning.

Meanwhile, former Central Bank officials Michael Wanjohia and Job Kilach are expected to start testifying today.

The two were involved in a Sh13.5 billion transaction that has been questioned and is a term of reference for the commission.

The inquiry resumes at 9 am this