

DBSA Response to Allegations made by Mr Bantu Holomisa

2020-11-06

On October 23rd, Mr Bantu Holomisa posted an open letter on the UDM website making allegations of maladministration, mismanagement and possible deep-rooted corruption at the DBSA as well as of the victimisation of board members.

The following statement is in response to the allegations made in the open letter.

Allegation

Where the DBSA is concerned, it appears as if the ruling party's deployees, in cabinet and on the DBSA board, are making-and-breaking as they please despite President Ramaphosa's promises to root out corruption. The matters I raise with Scopa have been broached with them, but they do not seem to heed the warning signs of corruption at the DBSA and, least of all, care to address them.

Response

The DBSA is governed by stringent corporate governance policies that are applied at every level of the organisation. At every level of the business, there are checks and balances, both internal and external, that ensure that every single operation and decision within the bank does not solely lie with a single officer but relies on collaborative consensus. The DBSA welcomes any engagement on these matters and has in the past engaged directly and transparently with Mr. Holomisa on various matters. The Bank strongly refutes any allegations of corruption and maladministration and has every confidence that these allegations will be dismissed by the appropriate forums.

Allegation

Regarding the chairperson of the board

Mr Enoch Godongwana, the DBSA's non-executive chairperson, is a Politically Exposed Person (PEP) and has managed to turn the DBSA into his personal spaza shop. By virtue of his PEP-status, he should in the first instance never have been asked to head a government financial intuition. If South Africa is really serious about having cleanly run government institutions, we must ask how he got there. Mr Godongwana should rather go back to Luthuli House where corporate governance policy is a foreign concept.

Response

The framing that Mr. Godongwana, the current chairperson's PEP status makes him unfit for the role of chairperson is unfounded and misleading. There are no policies that preclude the appointment of a PEP at the DBSA. His appointment followed an enhanced due diligence as per our policies, and his appointment by board members as chairperson was concurred to by the Minister. His track record working in public institutions, that include academia, is unparalleled. Mr Godongwana was Deputy Minister of Public Enterprises from 2009 to 2010 and Deputy Minister of Economic Development from 2010 to 2012. He has sat on numerous boards and his extensive experience at this level of leadership continues to contribute greatly to the DBSA.

Allegation

The case of Cranbrook Property Projects (Pty) Ltd

The entire saga relates to the alleged mismanagement and maladministration of three loans that the DBSA had allegedly extended to three entities: Blue Horizon Investments 11 (BH 11), Moeparutsi Properties and Proline Trading 60 (PT 60), all which apparently form part of Cranbrook Property Projects (Cranbrook).

The total of the outstanding loans allegedly stood at R426 million, including accumulated interest, and there is no evidence of any repayments since disbursing the loans in the mid-2000s, aside from an alleged partial repayment on the BH 11 loan.

In the end, the DBSA allegedly approved the write-back of hundreds of millions of Rands in interest according to the in duplum-rule, but also wrote off a whopping R259 million. I highlight some of the salient allegations to illustrate and motivate why Scopa should investigate the DBSA:

Response

The loans to three borrowers that form part of the Cranbrook Group were made between 2007 and 2009 in accordance and in full compliance with the credit processes applicable at the time. In 2020, DBSA management made a submission to the Board seeking approval for the write-off of arrears interest that had accrued on the loans to an amount exceeding the outstanding capital balance, and hence in breach of the in duplum rule.

Subsequent to this, the Board Audit Committee on request of a Board member, resolved on 23 April 2020 that Internal Audit investigate this matter, which audit is still in progress. In addition, the Bank's external auditors as part of their audit process conducted a review of the transactions and were satisfied with the DBSA's internal control environment in managing the investment portfolio, including write-offs.

The allegations inferring that writing-off in-duplum interest is irregular are false and reflect a basic lack of understanding of this common law rule. It is grossly misleading to suggest that the accounting write-off of in-duplum interest amounts to a waiver of rights of recovery against a client.

The DBSA has internal policies which govern the process of write-offs as dealt with by the Bank's Business Support and Recovery Unit (BSRU). Furthermore, all write-offs are subject to approval by the Audit and Risk Committee of the Board, on recommendation by the Bank's Investment Committee only when very clear criteria have been met, as set out in the Bank's write-off policy.

With regards to the Cranbrook Group of entities and the outstanding loan balances accrued up to in duplum, the DBSA is actively pursuing recovery of the loans in question.

Allegation

Regarding Moeparutsi Properties (Pty) Ltd

In 2007, the DBSA loaned R10 million to one Shokeng Mahlake and one Mashupye Matlala to acquire 17% of the shares in Cranbrook as part of a BEE deal. There have been no repayments of the loan after 2012 and no letters of demand have ever been issued for the outstanding obligation. No such an entity, "Moeparutsi Properties (Pty) Ltd", has ever been registered with the Companies and Intellectual Property Commission.

The original loan agreements were very poorly drafted – missing registration numbers and identity numbers for the individual sureties. The DBSA does not have any contact or financial information on the borrower or any of the sureties on record. The loan was absurdly enough, directly deposited into Cranbrook's account.

The board recently wrote off this debt, because it cannot locate the borrowers. I was however able to locate the identity numbers of the borrowers, which means the DBSA's Business Support and Recovery Unit (BSRU) did not exhaust all avenues in locating them (see paragraph 5.11).

Response

In March this year, the BRSU submitted a report on the Moeparutsi Properties to the DBSA's Investment Committee and the Board subcommittee; the Audit and Risk Committee requesting the following: the

write-back of unrecoverable in duplum interest, the write off of the obligations of Moeparutsi, zero rate interest on loans going forward and approval to dispose of the properties as soon as possible.

The loans in question were approved in 2007/8 in accordance with the credit processes applicable at that time. Since 2007, the Bank's processes have significantly evolved and changed in line with industry best practice and today the DBSA's credit approval process includes thorough engagement with various internal committees, and ultimately, the board where applicable. Allegations that the BSRU are not exhausting all avenues in recovering funds are false and grossly misleading.

It is important to note that loans secured by mortgage bonds only prescribe after 30 years. By law, in duplum interest cannot be recovered and therefore the decision taken by the Board to write this back is standard accounting practice and a principle applied at all financial institutions. Furthermore, the loan to Moeparutsi Properties was prescribed by virtue of it not being secured by immovable property.

It is the nature of banking that not all projects unfold as originally envisaged. Hence all banks have a workout or Special Operations unit whose responsibility it is to manage such projects and / or clients. The DBSA's Business Support and Recovery Unit ("BSRU") is the unit within DBSA which is responsible for managing the DBSA's Non-Performing Loans (NPL) portfolio and has proactively dealt with the Cranbrook group of entities and the underlying projects on the same basis as they would manage any other NPL within the greater portfolio. Over many years, BSRU had explored a variety of options with the Cranbrook group. As a DFI, the DBSA takes a longer-term view and consequently, it is not unusual for the rehabilitation or exit of NPLs to be within the unit longer than might be the case with a commercial bank.

Allegation

Regarding alleged victimisation of certain board members and irregular reformation of the board

Earlier this year, it appears that the chairperson of the board, Mr Enoch Godongwana, unilaterally wrote to the Finance Minister about two vacancies and the reappointment of eight executive-directors, all of whom had been eligible for reappointment.

The board had no knowledge of his actions and there allegedly were board members who were unhappy with the entire process and the chairperson's actions on the board's behalf without its knowledge.

Response

The assertion that the chairperson would act unilaterally is false and an inaccurate description of his leadership style. The letter referred was distributed to all board members prior to it being sent to the Minister, following the issue of the appointment of directors being deliberated at both the Human Resources and Nominations Committee and at the subsequent board meeting.

The DBSA Act clearly stipulates that the duty to appoint board members resides with the Minister. The actions taken with regards to board vacancies and reappointments of board members were in accordance with directions from the Minister.

Allegation

What happened simultaneously was that a now former board member allegedly dared to question the Cranbrook and other matters, and then had allegedly been the target of malicious actions by the chairperson and the senior DBSA management who, as far as the United Democratic Movement is concerned, has shown their true colours (see paragraph 7).

The seemingly petty actions of the chairperson include his alleged instruction to the DBSA officials that this former board member's fees be withheld for two months. This allegedly happened after the DBSA management out of the blue recalled all the electronic devices it issued to board members, and some executive staff, under the pretext of a forensic investigation to establish leaks. But it could rather seem

like an effort to tamper with ICT to cover acts of corruption, by the very same people who were being questioned by this board member.

Response

The board, under the leadership of Mr. Enoch Godongwana encourages robust engagement on various issues. Allegations that dissenting voices are not encouraged are false, and grossly misleading.

It is unfortunate that Mr. Holomisa's allegations are based on hearsay, without any factual basis and direct engagement with the DBSA. The DBSA would like to encourage Mr Holomisa to obtain the facts directly from the DBSA through the appropriate channels.

It is false to allege that there was an effort to tamper with ICT to cover acts of corruption when it was clearly communicated to all board members that the board digital platform that was previously used would be changed as a result of the software service provider being bought over by another entity. The outcome of the takeover was that the software platform in use, was to be discontinued and would no longer be supported. Therefore, all DBSA users of the platform would need to hand in their electronic devices to enable a migration to the new platform.

Both the new and previous board platforms are cloud solutions with comprehensive information security protocols including audit trails, making it technically impossible for management to manipulate information. Nevertheless, it is important to point out that the DBSA had a legitimate concern around information leakage and all information pointed to the possibility that the leak emanated from the limited users who had access to the boardpads in question. An investigation sanctioned by the board was requested to investigate this leak. As a result, all board members and executives and administrative staff who had access to confidential documents were requested to submit their devices to allow for the investigation to take its course. This coincided with the request that all board members and executives submit their DBSA issued devices to enable the loading of the new platform onto the boardpads following the discontinuance of the old platform. All board members and executives submitted their devices except for one board member.

Allegation

Regarding board member payments.

Response

Allegations of fees being held to victimise board members are false and grossly misleading. These allegations are based on misinformation, and juvenile conclusions. Numerous letters were written to the one board member who ignored the board resolution to submit the DBSA issued device for loading the new board platform and the investigation. This non-adherence resulted in that member being unable to exercise her fiduciary obligations and access the necessary information required to prepare for meetings and make the necessary decisions.

This meant that the director's conduct was not only against a board resolution but also frustrating an investigation that goes into conduct and ethics of an organisation. Fees are paid to board members for their services. It would be fruitless and wasteful expenditure and would set a bad precedent if board members were paid merely for attending meetings without adequately preparing for those meetings.

After considered engagement which included external legal counsel, the chairperson saw it fit to withhold these fees based on the values espoused by the board, that no one ought to be remunerated for services not rendered and for withholding a bank asset. Directors in line with good governance are expected to participate meaningfully, to the success of the Bank and the fulfilment of its mandate.

Allegation

To give further context to the sophistication of the alleged manipulation, it is alleged that when the

Cranbrook matter arose at board level, the company secretary asked for outside legal opinions on the situation (as described in Paragraph 5). Those legal opinions apparently clearly advised that the entire Cranbrook matter had to be investigated forensically. That advice was allegedly wilfully ignored and the DBSA management's scramble to have board members' access to the DBSA's IT systems revoked and electronic devices recalled smack of wrong-doing and a concerted cover-up effort. The former board member under discussion's refusal to return the tablet was therefore for a good reason and ultimately correct.

Response

The appointment of legal counsel on such matters is a board-approved process that is aligned with the PFMA guidelines. The sourcing must be sanctioned by the chairperson and actioned by the company secretary. Furthermore, the legal team engaged with, must be a supplier on the existing DBSA legal panel. This process was followed, and the legal opinion received from the external party was considered. It is factually incorrect that the legal opinions received were wilfully ignored.

The decision to conduct the internal audit investigation was taken and actioned even before the legal opinions were sought and obtained.

Allegation

Subsequent to all these shenanigans, this person's board membership was ended through what seems to be a concerted effort of the chairperson to rid the DBSA of a board member who would not toe the line of condoning alleged maladministration and corruption. Even though an "independent executive search firm" was apparently appointed, albeit under allegedly irregular conditions, Finance Minister Mboweni had still decreed that the appointment process should be led by Mr Godongwana, whom I believe had compromised himself with a clear bias towards the aforementioned former board member.

Response

The DBSA notes with concern the lack of facts in the information that led to this conclusion. Board member appointments and reappointments solely reside with the Minister in accordance with the DBSA Act. "The person's board membership" referred to in the allegations had come to an end by effluxion of time. Board members renewals are not automatic and are at the discretion of the Minister. We refute the allegations that the independent executive search firm was appointed irregularly. The firm was appointed in line with all legislative requirements to ensure an appropriate balance of skills and enhance the governance process leading to the Minister's decision to appoint.

Previous Allegations including Poseidon

The DBSA remains concerned that Mr Holomisa has shown a pattern of making baseless accusations and relying on hearsay without obtaining the truth and the facts directly from the DBSA.

These allegations started when he made allegations against the DBSA regarding investment into Poseidon whereby Mr Holomisa made allegations that the DBSA gave funding to Politically Exposed Persons without due process being followed. The DBSA asserts that adequate checks and balances were incorporated into the decision made to approve the funding to Poseidon. This was confirmed by an independent investigation commissioned by the DBSA.

Queries

Email: dbsa@dbsa.org