

## Judgement strengthens Corporate Governance in South Africa

Pretoria 26 November 2013 - The Public Investment Corporation (PIC) announced today that its appeal against a case involving its former employee, Kagiso Bodigelo, to have board fees paid to him was successful. The outcome of this appeal bodes well for good corporate governance in South Africa. Had the courts found that the board fees should be paid to Bodigelo, the implications would have been huge not only for the PIC, but for corporates, as they would now have to pay board fees to employees nominated to sit on boards of various companies.

Bodigelo instituted action against the PIC claiming board fees and bonuses in the sum of R2 345 534.00 which were paid to the PIC by various investee companies of the PIC. Bodigelo served as a non-executive director in his capacity as an employee of the PIC. He claimed that the PIC received these board fees and bonuses on his behalf and for his personal benefit. These investee companies were DCD-Dorbyl (Pty) Ltd, Blue Label Investments (Pty)(Ltd), Kulungile Metals Group (Pty)(Ltd) and Global Roofing Solutions (Pty)(Ltd). The PIC's decision to appeal the matter was primarily based on principle, owing to the substantial number of its employees appointed as non-executive directors to the boards of companies in which it invests.

The SCA dismissed Bodigelo's claim with costs, including costs of two counsels based on the following findings amongst others:

- The PIC did not act as Bodigelo's agent when it received the board fees and bonuses from the investee companies. The payments were made to the PIC on its instruction to the investee companies. Thus, the PIC received the monies as the principal and not as agent for Bodigelo;
- According to the evidence led, Bodigelo's cause of action did not exist; and
- No agreement existed between Bodigelo and the PIC which entitled him to the board fees and bonuses.

The decision will provide guidance and legal certainty to corporate South Africa in respect of payment of board fees where employees are nominated by their employers to sit on boards.

- End



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