

20 July 2020.

The Chairman,

Presidential Investigation Committee
On the Alleged Mismanagement of
Economic and Financial Crimes Commission
(EFCC)
Federal Government Recovered Assets and
Finances
From May 2015 to May 2020.

My Lord and Gentlemen,

**RE: ALLEGED CASE OF CONSPIRACY,
ENRICHMENT, ABUSE OF PUBLIC OFFICE AND
OTHER INFRACTIONS**

1.0 Introduction.

2.0 You will kindly recall that I was invited through a letter dated 6 July 2020 to appear before your highly respected panel immediately upon receipt of the letter of invitation.

2.1 Since my appearance and subsequent detention on 6th July, 2020, I have repeatedly sought for details of

allegations and petitions against me personally and through my counsel. This request has not been obliged till date. As you are well aware I am entitled to know beforehand the allegations that have been made against me so that I can respond to them appropriately. This is quite apart from the fact that I am entitled to know who my accusers are and be opportuned to cross-examine them. These accusations arise from the exercise of the duties of my office and I should be given access to relevant documents in order to make my defence.

You have repeatedly pointed out to me that I am not before you as an accused or a suspect but only as a witness. Even then it is important that I know what the issues are, who the persons are who are raising those issues and also access to official records that will enable me offer you useful testimony. As I have no opportunity of confronting my accusers I trust that you will give due consideration to these my humble submissions made under extremely difficult and frustrating circumstances. That will be the highest demonstration of your commitment to one of the fundamental principles of justice, which is fair hearing. My sole consolation is my faith in this panel and my conviction that I am innocent.

2.2 I cannot fail to acknowledge that I have since become aware of false allegations made against me in the social media and in various national and local newspapers to which my attention has been drawn by my friends and well wishers. As I cannot possibly respond to all these falsehoods I have settled on attempting a response to the best of my ability to the following:

a. Report of the Presidential Committee on Audit of Recovered Assets (PCARA).

b. Memo of HAGF to Mr. President against me.

c. Alleged petitions addressed to the HAGF, now in the custody of the panel, not served on me.

2.3 In the light of the above I now respond that under my watch, no assets were sold and the proceeds thereof converted.

2.4 The investigation conducted by the Commission in respect of the P&ID matter has been timely and exemplary and has been commended by English Courts, with Justice Butcher commenting that Nigeria has established seismic fraud against P&ID which His Lordship described as a briefcase company. Further, Nigeria's off-shore lawyers

are relying on over 5,000 pages of documents and evidence supplied them by the from the Commission's investigation of this saga.

2.5 Neither I, nor the EFCC, have ever threatened any Judicial Officer in the discharge of our official functions.

2.6 There has been no mismanagement of or lack of transparency in the management of recovered assets under my leadership of the Commission.

2.7 There has been no diversion of proceeds from recovered assets or personal enrichment on my part. A careful investigation into what has been recovered and what has been paid into the appropriate accounts will easily confirm this.

2.8 The EFCC has in a timely and exemplary fashion responded to information and documents whenever required by Honourable Attorney General of the Federation, not just in respect of the Paris Club Refund investigations, but in respect of other investigations. These falsehoods have been repeatedly uttered but no matter how often they are repeated or uttered they will never acquire the semblance of truth. Contrary to all the falsehoods that have been spread about and against me

the in several cases under investigation, recovery and management of assets, the office of the HAGF has either interfered with the process or has been less cooperative and supportive.

2.9 Also, the laid back approach of the Office of the HAGF particularly in cases of extradition has not been particularly helpful. My Lord, Gentlemen, without attempting to blow my trumpet in respect of the achievements we have recorded in the fight against corruption under the leadership of His Excellency President Muhammadu Buhari, that contrary to the assertion that I was not acting in the overall best interest of the country and the policies of this administration, I wish to state that my service and records of achievements have been commendable. A comprehensive list of the key achievements of the Commission under my leadership is hereby marked as **Annexure 1**.

3.0 ALLEGATION (A)

FINAL REPORT OF THE PRESIDENTIAL COMMITTEE ON AUDIT OF RECOVERED ASSETS (PCARA): MISMANAGEMENT AND LACK OF TRANSPARENCY IN MANAGING RECOVERED ASSETS.

RESPONSE:

3.1 I unequivocally deny this allegation as same is untrue and merely calculated to tarnish my name, that of the Commission, and the giant strides this administration has recorded in the fight against corruption and recovery of the proceeds of corruption.

3.2 My Lord, Gentlemen, contrary to the allegations contained in paragraph (A-5X) of the Report, I know as a fact and verily believe that:

a. Not a dime of the recovered funds was converted to my personal use. I challenge my accusers to produce evidence of such fraudulent conversion.

b. It is the international best practice in audit to have an entry and exit meeting. During the exiting meeting, parties are expected to thoroughly review and reconcile documents/data to enable the auditee present necessary explanations to clear any grey area.

c. Contrary to the established international best practice and the principle of fair hearing as enshrined in Section 36 of the 1999

Constitution (as amended), the Report of the PCARA and the documents analyzed before making the purported findings contained in Paragraph 5 of the petition were never made available to the Commission to respond and clarify.

- d. That I was not invited by the Committee to defend myself and the Commission before the purported findings were made. That fair hearing demands that I should not be indicted without being heard.
- e. The existing structure in the EFCC on the recovery of assets and the management of same will not allow any form of mismanagement of recovered assets to be perpetrated. In the Commission under my watch, funds are recovered vide bank drafts issued in favour of the Commission and lodged in the recovery accounts domiciled with the Central Bank of Nigeria (CBN).
- f. Even when cash is recovered during execution of search warrant, such funds are meticulously counted, kept in the safe custody of the Exhibit Keeper and lodged in the recovery account.

- g. I am not a signatory to these accounts and the funds therein. I have never approved a withdrawal from any of the Commission's recovery accounts for my personal benefit.
- h. Nowhere have I reported the Naira equivalent of the foreign currency recoveries. As a matter of standard practice and procedure, the Commission under my leadership reports foreign currency recoveries and not the Naira equivalent of same.
- i. The commission under my leadership has never converted foreign currency recoveries to Naira.
- j. The allegation in paragraph 5(ii) of the Report is untrue because I did not manipulate data of the Commission's recoveries.
- k. While I cannot confirm the source of the figures quoted in paragraph 5(ii) where the commission was alleged to have under reported the sum of N39, 357,608,119.43, I am aware that by a letter dated the 24th March, 2017, Mr. President instructed me to forward the status of various recoveries the Commission made from May, 2015 till the date of

the letter. Attached and marked Annexure 2 is a copy of the letter.

- l. Upon receipt of the aforesaid letter, I promptly compiled a comprehensive list of the recoveries and forwarded same through a letter dated April 7, 2017. My letter of April 7, 2017 is attached and marked Annexure 3. My report to Mr. President was supported with relevant source documents.
- m. The alleged under-reported sum of N39, 357,608,119.43 was admitted by the Petitioner to have been lodged in the recovery account domiciled with the Central Bank of Nigeria (CBN) which is not under my total dominion and control. This demonstrates the falsity of the accusation of diversion of forfeited assets wrongly leveled against me.
- n. In the exercise of its statutory duties, the Commission, is empowered to make recoveries for the Federal Government, State Governments, private individuals and corporate bodies and as such not all funds in the recovery account belong to the Federal Government of Nigeria (FGN).

- o. The period analyzed by the PCARA Report in paragraph 5 of the petition is not stated.
- p. The figures reported by PCARA may not have taken note of third party recoveries that would have been transferred to the respective beneficiaries directly. Such direct beneficiaries include:
 - i. Federal Inland Revenue Service (FIRS),
 - ii. Nigerian National Petroleum Corporation (NNPC).
 - iii. Asset Management Corporation of Nigeria (AMCON).
 - iv. Nigerian Customs Service (NCS).
 - v. Commercial Banks.
 - vi. Other Corporate Organizations; and
 - vii. Individuals.
- q. The allegation in paragraph 5(iii) of the petition is vague and not supported by any particular instance, thus I am unable to respond with precision. However, it is trite that the figure standing to the credit of an account is susceptible to changes as a result of interest element and bank charges. The amount of money at the time the Commission obtains forfeiture order changes with time,

either as a result of bank charges or inflows into the account after the interim order was made. It can therefore not be expected that the amount stated in the application before the order of Interim forfeiture is made will remain static.

- r. The allegations in paragraphs 5(iv), 5(v) and 5 (vi) of the petition are untrue as I did not refuse to oblige the request of the Honourable Minister of Finance seeking necessary clarification in respect of our various recoveries.
- s. The allegations in paragraph 5(vii) of the petition are equally false. Upon my assumption of office, I have taken various steps to prevent wastage of physical assets including landed properties, motor vehicles, vessels, etc. just to ensure that the FGN derives the maximum economic value and benefits from such properties.
- t. On the issue of MT GOOD SUCCESS, MT DERBY and MV THAMES referred to in the Petition, I also know as a fact and verily believe that:
- u. On the 30th of October, 2015 His Lordship, Hon Justice O. E. Abang in

a well-considered judgment forfeited to the FGN the following:

- i. The vessel MT Good Success.
- ii. 1,459 metric tons of Premium Motor Spirit (PMS) on board the vessel.
- iii. The sum N66,069,505 and \$975,694,50 in FCMB Plc account of Hepa Global Energy Limited, the owner of MT Good success.

Annexure 4 is the enrolled order of the said Judgment available in the records of EFCC upon request.

- v. Upon the delivery of judgment, the owners of MT Good Success appealed and also filed motion for Stay of Execution which was dismissed by the Court of Appeal on the 13th July, 2016. See HEPA GLOBAL ENERGY v. FEDERAL REPUBLIC OF NIGERIA (2016) LPELR-41288 (CA).
- w. Before the stay of execution was filed, I ensured that the FGN took economic benefit of the funds forfeited by the trial Court from the account of Hepa Global Energy, by following the money from FCMB up to the confirmation of its receipt by the CBN. Attached and marked Annexure 5(a)-(f) are relevant

documents showing my effort in this regard.

- x. Furthermore in a bid to ensure that the FGN took the economic benefit of the MT Good Success and in demonstrating my total commitment to accountability and transparency in the process of disposition of forfeited assets, the Commission under my leadership wrote a letter to the Honourable Attorney-General of the Federation (HAGF) reference number EFCC/SC/JUS/07/101 dated 24/03/16 titled "NOTIFICATION TO DISPOSE" of MT GOOD SUCCESS, recommending the disposal of the vessel and the processes to be adopted. The said letter which is referred to as Annexure 6 for ease of reference is available in EFCC records for verification.

- y. The Commission did not receive any response from the HAGF to our letter dated the 24/03/16. However, through memos dated 10th and 23 November, 2016, the Lagos Zonal Office of the Commission informed the Commission's Directorate of Asset Forfeiture Recovery and Management (D-AFRM) of the correspondence from the Nigerian Navy (NN), which is the custodian of all detained and forfeited vessels, stating that MT GOOD SUCCESS had

sunk. The memos are hereby marked Annexure 7a and 7b respectively for ease of reference and available in EFCC records upon request by the Panel.

- z. The letter indicated that the owners of the vessel appealed against the judgment forfeiting the vessel and applied for stay of execution which was rejected by the Court. The letter from the Nigerian Navy (NN) attached to the aforesaid memos stated that when the vessel was experiencing ingress of water, the NN made an effort to relocate the vessel from Lagos Anchorage and made contact with the Commission's Lagos Office for evacuation of the products but this could not be actualized before the vessel submerged.

- aa. Pursuant to the above recommendation, a meeting was held with the Flag Officer Commanding Western Naval Command at which he explained that the vessel had sunk but same could be salvaged, after incurring heavy costs, as only very few companies, such as Julius Berger, have the equipment and capacity to salvage the vessel.

bb. The Report of the meeting was conveyed through a memo dated 19th December, 2016 wherein it was recommended that all vessels in custody of the Navy listed in the memo including MT Good Success should be salvaged, evacuated and disposed of, if possible. The said memo is hereby marked Annexure 8 for ease of reference and available in EFCC records if requested for by the Panel.

3.3 The recommendation was accepted as indicated in the minute on the aforesaid memo (Annexure 8) wherein I directed the then Secretary to the Commission to expedite action on the due process of auction.

3.4 The then Secretary to the Commission, Mr. Emmanuel Aremo, directed the then Head of Procurement, Mr. Olushina, to issue a letter of engagement to Pinnacle Trading and Investment Nigeria Limited for the disposal exercise.

3.5 The letter issued to Pinnacle Trading and Investment Nigeria Limited was later discovered not to have complied with statutory procurement procedures provided under the Public Procurement Act, 2007 and therefore the Commission's Management directed the

revocation of the letter and publication of a disclaimer. The action was taken when it was discovered that the personalities behind Pinnacle were also behind another company known as Omo-Jay Nigeria Limited being prosecuted by the Commission for illegal oil dealings in the Niger Delta.

3.6 In respect of the vessel MT DERBY, I also know as a fact and verily believe that:

- i.** The Commission had set in motion the process of disposal of the content of the vessel when Honourable Justice Idris of the Federal High Court, Lagos Division gave an order that the Automated Gas Oil (AGO) on board the vessel PS V Derby shall be sold by the Registrar of the Court in collaboration with the Prosecutor and Defence Counsel while the proceeds of sale shall be dealt with as the court may direct pending the determination of the charge. The Court order of 7th April, 2017 is available in the record of EFCC as Annexure 9, on request by the panel.

ii. Whilst the Commission was taking assiduous steps towards enforcing the order of his Lordship, the HAGF commenced a fresh process for the disposal of the vessels mentioned above. In so doing, the HAGF did not respond to the letter written to him by the former Secretary to the Commission, recommending the disposal of MT Good Success. Rather, the HAGF commenced his own process of disposing not only MT GOOD SUCCESS but other vessels already forfeited by the Commission including MT ASTERI, MT DERBY, MV THAMES and many others connected to pending court cases.

iii. The firm of DIPO OPESEYI & Co wrote a letter dated September 12, 2017 informing the Commission of its engagement by the HAGF to Obtain forfeiture order against the vessels and dispose of them. The letter is hereby attached and marked as Annexure 10.

iv. To support his disposal of the vessels, the HAGF through a letter Ref: No: HAGF/ARMU/RMDOVSC/2017/1, dated January 23, 2018 informed the Commission that the firm of DIPOOPESEYI & Co. had undertaken forfeitures on his behalf and requested the Commission to work

with the firm to reconcile the orders obtained by the firm. The letter of the HAGF dated 23 January, 2018 is marked Annexure 11 and available in the record of EFCC for verification.

v. The Commission further received a letter dated February 6, 2018 from the firm of DIPO OPESEYI & CO. titled FHC/ABJ/741/2017 & FHC/ABJ/CS/742/2017- FRN v. UNKNOWN PERSONS reiterating its engagement by the HAGF and the steps he has taken. The said letter is hereby referred to as Annexure 12.

vi. The attachment to the above letter revealed that MT GOOD SUCCESS, MT DERBY & MT THAMES were among the 136 (One hundred and thirty six) forfeited vessels. These are the vessels for which I am now being accused of mismanaging despite the engagement of a private legal firm by the HAGF to forfeit and dispose them.

vii. I also know that by a letter reference number HQ/011/78/98/93/A/VOL.1/21 dated 14th of February, 2020 addressed to the Acting Chairman of the Commission, the Nigerian Navy informed the Commission that the

HAGF, by virtue of FGN OFFICIAL GAZETTE No. 163 Vol. 106 of 2019, directed the Nigerian Navy to allow Omoh-Jay Nigeria Limited to evacuate the content of MT PEACE and MT ASTERIS. Annexure 13 is the said letter which is available in the record of EFCC upon request.

viii. Also, by a letter reference numbers h/COS/34/25/A/475 dated 22/2/18, the Chief of Staff to the President directed the Commission not to take any step towards the sale, disposal or other dealing with the recovered and forfeited assets unless otherwise directed. The said letter is hereby attached and marked as Annexure 14.

ix. By a letter dated 18 May, 2018, the firm of SANI & CO Solicitors, acting on behalf of FSS Nigeria Limited, an auctioneer engaged by the Commission, informed the Commission that the Ministry of Defence and HAGF had by appointments and advertisement commenced the process of engaging other auctioneers to dispose the vessels, thereby taking away the opportunity given to this auctioneer by the Commission to dispose of the vessels through transparent due process. The

aforesaid letter is attached and marked as Annexure 15.

- x.** The aforesaid law firm of SANI & Co wrote a similar petition to the Bureau of Public Procurement (BPP) against the Commission and the HAGF for undertaking double disposal process of the same assets. The Commission was invited to BPP to respond to the allegation.

- xi.** By a Letter Ref: No: MOD/PROC/GEN/346/1 dated 21 June, 2018 the Honourable Minister of Defence, informed the Commission of the approval of Mr. President to the Ministry of Defence to dispose the vessels. The letter of the Ministry of Defence to the Commission and the letter conveying the approval of Mr. President to the Honourable Minister of Defence are hereby attached and marked as Annexure 16.

- xii.** The HAGF through the Head of Asset Recovery and Management Unit of the Ministry of Justice, Ladidi B. Mohammed, wrote a letter to the Commission with reference number HAGF/ARMU/RMDOVS/2017/11 dated 27 July, 2018 requesting for access to the vessels for valuation by Omo-Jay Nigeria Limited, Federal

Ministry of Works and Housing and 'Dipo Okpeseyi & Co. The letter is attached and marked as Annexure 17.

xiii. In demonstrating my total commitment to ensuring that the FGN derives the full economic benefit and in order to prevent the dissipation of forfeited assets on 17 July, 2018 I wrote a letter to His Excellency, the Vice President Prof. Yemi Osinbajo, SAN (Chairman, Presidential Committee on Asset Recovery) wherein I informed him of the steps taken by the Commission to prevent economic loss as result of the depreciating nature of the forfeited assets, the challenges we are encountering and the need to urgently dispose of the perishable and depreciating forfeited assets. The letter is hereby attached and marked as Annexure 18.

xiv. That in relation to the ALLEGATION contained paragraph (5ix) of the petition, I also know as a fact and verily believe that:

(a) The Commission did not make any conflicting submissions or returns in respect of the non-cash assets as the PCARA never informed me or the Commission of any difficulty it faced as a

result of the information we provided.

(b) The allegation borders on increment in the number of forfeiture of real estate after the return made to the President. The increase in the number of forfeiture of non-cash assets was as a result of fresh and additional forfeiture orders obtained by the Commission from the courts.

(c) That the Commission has the requisite capacity to manage the recovered assets. The commission has a very standard directorate of Asset Forfeiture saddled with the responsibility of managing recovered and forfeited assets.

4.0 ALLEGATION B: MISMANAGEMENT OF RECOVERED ASSETS AND DIVERSION FOR PERSONAL ENRICHMENT

4.1 The allegations in Paragraph B of the petition are contained in paragraphs B (6), B(7), B8), B(9), (B10) and (B11).

ALLEGATION IN PARAGRAPH B(6) :

4.2 The allegations in B (6) are that I protested against the efforts of the National Assembly (NASS) to address the

transparency of the process of the management of recovered assets through the enactment of the Proceeds of Crime Bill, 2019. It was also alleged that due to the protest of the Commission and the false information I purportedly supplied, Mr. President declined assent to the Proceeds of Crime Bill, 2019.

MY RESPONSE TO ALLEGATION IN PARAGRAPH B

4.3 I deny all the allegations contained in paragraph B (6) of the petition as same are untrue and only calculated to embarrass me and denigrate my patriotism and unflinching loyalty to the President and the Federal Republic of Nigeria.

4.4 That contrary to the allegations in paragraph B (6), I know as a fact and verily believe that:

i. Mr. President forwarded the draft Proceeds of Crime Bill to the Commission, as well as other Anti-Corruption Agencies, such as the Nigerian Police Force, ICPC, NDLEA, NAPTIP and the Nigerian Customs Service. Attached and marked as Annexure19 is the letter from the Chief of Staff to the President forwarding the Proceeds of Crime

Bill, 2019 to the Commission for review, comments and remarks.

- ii.** Upon receipt of the Presidential instruction, I promptly constituted a team of experts in this field with requisite experience, to review the draft Bill as directed by Mr. President.
- iii.** After a thorough review of the Bill, the Commission came up with a common position and forwarded same to Mr. President. Annexure 20 is a copy of the letter through which the Commission forwarded its position to Mr. President and is available in the record of EFCC.
- iv.** Apart from the Commission, other Anti-Corruption Agencies also forwarded their views to Mr. President, disagreeing with substantial sections of the Bill.
- v.** Mr. President declined assent to the Proceeds of Crime Bill, 2019 in the overriding interest of the nation and the need to sustain the tempo of the achievements this administration is recording in the fight against corruption. The legislature is empowered to make laws for the peace, order and good government of the nation and the President is

entitled to refuse his assent to a Bill if he is of the view that instead aiding the fight against corruption it will aid and facilitate it.

vi. The recommendations of the Commission to Mr. President on the Bill was not tainted with any falsehood, rather it was honest, professional, courageous and patriotic. Other than the corporate position of the Commission which was transmitted to Mr. President, I did not sponsor any campaign against the POCA Bill, 2019. The Panel may feel free to examine those recommendations in order to satisfy itself that they were made in good faith in the interest of the nation.

ALLEGATIONS IN PARAGRAPHS B (7), B(8) & B(9)

4.5 The allegations in paragraphs B7, B8 & B9 are that:

- i. I neglected and refused blatantly to comply with Regulations on the Management of Recovered Assets, 2019.
- ii. I do not want a proper and transparent procedure for the Management of assets as directed by

Mr. President through the Office of the HAGF.

- iii. I and top officials of the Commission are using the forfeited assets to corruptly enrich ourselves.

MY RESPONSE TO ALLEGATIONS IN PARAGRAPH B(7), B(8) & B(9)

4.6 I deny all the allegations in paragraphs B(7), B(8) & B(9) of the petition in their entirety as they are totally untrue and calculated to malign me and the Commission.

4.7 Contrary to paragraphs B (7), B(8) & B(9) of the petition, I know as a fact and verily believe that:

- i. All steps taken by me in respect of recovered and forfeited assets were in accordance with powers conferred on me by the Act of the National Assembly which established the Commission.

- ii. I have never disobeyed any directives and regulation of Mr. President whether in relation to the management of the recovered and forfeited assets or any sundry issues.

- iii. In the discharge of my official functions, I am bound to comply with the provisions of various enabling laws enacted by the NASS which confer certain special powers on the Commission in respect of recovered and forfeited assets which are in conflict with Regulations issued by of the HAGF. It will be helpful to specify which directives or orders issued by the HAGF to the Commission were disobeyed by me or any other staff of the Commission. It is unfair to allege that I have refused to obey orders without specifying the orders that I have refused to obey.
- iv. Section 17 of the Advance Fee Fraud and Other Fraud Related Offences Act, 2006 conferred on the Commission the responsibility of tracing and forfeiting abandoned properties and properties reasonably suspected to have been acquired with the proceeds of unlawful activities.
- v. Through the special provisions of Section 17 of the Advance Fee Fraud and Other Fraud Related Offences Act, 2006, the Commission under my watch has forfeited numerous properties to the FGN.

vi. Rather than strengthening the institutional capacity of the Commission and the provisions of section 17 of the Advance Fee Fraud and Other Fraud Related Offences Act, 2006, the Commission and its enabling statutes have been subjected to numerous attacks and blackmails aimed primarily at whittling down the powers of the Commission

vii. One of such attacks is section 162 (3) of the Proceeds of Crime Bill, 2019 which seeks to delete sections 20, 21, 22, 24, 25(a), (c) & (d), 26(1)(b), 29, 33, and 34 of the Economic and Financial Crimes Commission (Establishment) Act, 2004 which empowered the Commission to investigate, prosecute and confiscate assets that are the proceeds of crime.

viii. Considering the negative impact section 162 (3) of the Proceeds of Crime Bill, 2019 will have on the tracing and recovery of proceeds of crime in Nigeria, Mr. President in his wisdom, declined assent to the Bill.

ix. The Asset Tracing, Recovery and Management Regulations, 2019 made by the HAGF without the intervention of the NASS seeks to divest the Commission of its statutory powers to trace, recover and institute non-conviction based forfeiture proceedings in court. This development conflicts with the statutory mandates and powers conferred on the Commission by the NASS.

x. I have always been transparent in the exercise of my duties and there is no official decision that I have taken as Ag. Chairman of the Commission which was not a product of transparent process and in compliance with statutory provisions.

xi. The Commission did not oppose the enactment of Proceeds of Crime Bill, 2019 but was opposed to some negative and far reaching provisions of the Bill which would impede and reverse the anti-corruption agenda of the FGN.

ALLEGATIONS IN PARAGRAPH (B) 10

4.8 In paragraph B (10), it was alleged that most of the forfeited assets are sold without anyone knowing, or having

proper record and recourse to the Federal Ministry of Works and Housing that has the mandate to undertake evaluation of such properties. It was also alleged that some of the assets have been taken over by officials of the Commission while some are sold at giveaway prices to my friends and cronies. It was further alleged that I maintained different accounts including using proxies who return the benefit of the sold assets to me and that the proceeds of the purported sales were used to acquire properties in the name of my proxies.

MY RESPONSE TO ALLEGATIONS IN PARAGRAPH B(10)

4.9 I deny each and every allegations contained in paragraph B(10) of the petition as they are totally false, untrue and merely targeted at destroying my hard earned reputation as incorruptible Officer.

4.10 That contrary to the allegations contained in (10) of the petition, I know as a fact and verily believe that:

- i. Since my assumption of office as the Ag. Chairman of the Commission, not a single recovered or forfeited property has been sold and the

proceeds converted to my personal use or the personal use of any other staff of the Commission.

ii. All the finally forfeited properties are intact except those described below:

- 241 Forfeited Trucks: The Federal High Court directed the trucks to be sold by the Deputy Chief Registrar of the court in conjunction with the Department Petroleum Resources (DPR) and the Commission. In addition to the Order of Court, I ensured that Presidential approval was sought and obtained before the process of sale commenced in December, 2019. The aim was not to override or undermine the order of the court but merely to bring the matter to the attention of His Excellency the President. The sale by public auction was duly conducted and concluded and the proceeds paid to the Recovery Account domiciled in the Central Bank of Nigeria. Attached and marked Annexure 21 is the Presidential approval and evidence of remittance of the proceeds of sale to the Recovery Account.

- ***Allocation of vehicles to some Government Agencies through Special Auction with Presidential approval. The beneficiary Agencies are:***

- a) Ministry of Humanitarian Affairs and Disaster Management of which the valued price is to be debited from their allocation.
- b) State House.
- c) National Commission for Refugees and Displaced Persons.
- d) Federal Inland Revenue Service (FIRS).
- e) National Directorate of Employment (NDE); motorcycles.

- ***Real properties finally forfeited to the FGN and Allocated to some Agencies for official use in line with the Presidential approval are:***

- a. Voice of Nigeria (VON).
- b. National Directorate of Employment (NDE).
- c. Ministry of Humanitarian Affairs and Disaster Management.
- d. North East Development Commission.
- e. Pension Transitional Arrangement Directorate (PTAD)

- ***Properties under interim forfeiture order rented by some Government Agencies:***

- a) Nigerian Army
- b) Federal Ministry of Finance
- c) Fiscal Responsibility Commission
- d) Nigerians in Diaspora Commission
- e) Federal Airports Authority of Nigeria

- ***Other Agencies of Government that have approached the Commission to rent property under interim forfeiture order include:***

- a. National Human Rights Commission
- b. National Council for Arts and Culture.

- The commission also temporarily handed over property in Lagos to the Lagos State Government for use as Isolation Centre for COVID-19 patients.

- The commission presently has Presidential approval to dispose over 450 forfeited vehicles located in Lagos and Abuja. The vehicles have been valued by the National Automotive Council and the Federal Ministry of Works and Housing. But

no sale/disposal has been conducted yet.

ALLEGATION C:

ISSUE ONE

ALLEGED FAILURE TO TIMEOUSLY INVESTIGATE PROCESS AND INDUSTRIAL DEVELOPMENTS LIMITED (P&ID)

4.11 I vehemently deny the allegation of not timeously investigating P&ID as directed by Mr. President. Further, I know as a fact and verily believe that the germane facts surrounding the award of US\$9.6 billion to Process and Industrial Developments Limited (P&ID Ltd), a British Virgin Island(BVI) registered company, and the involvement of the Commission may be summarized as follows:

i. P&ID (Nigeria) Limited, a 'subsidiary' of P&ID Ltd of BVI signed an MOU with the Federal Ministry of Petroleum Resources on 22 July, 2009. The MOU was for the conversion of wet gas to lean gas by the company for generation of electricity.

ii. On 11 January, 2010 P&ID Ltd of BVI (instead of its Nigerian 'subsidiary') signed a Gas Supply

and Processing Agreement (GSPA) with the Ministry of Petroleum Resources as a follow up to the MOU;

a. In 2012, P&ID alleged breach of the terms of the GSPA and filed an arbitration suit against the FGN in London.

b. In 2014, the Arbitral Panel made a finding of liability against Nigeria.

iii. On the 31 of January 2017, the Arbitral Panel awarded the sum of US\$9.6 billion against Nigeria.

iv. On the 28 June, 2018, the Office of the HAGF and Minister of Justice wrote to the EFCC, forwarding Mr. President's directives that the P&ID case should be investigated. The petition from the HAGF to the Commission is marked as Annexure 22 and available in the record of EFCC for verification.

v. The Commission promptly commenced investigation and filed charges in September, 2019. Within 15 (fifteen months) of receipt of the letter of the HAGF, the Commission concluded investigations, filed criminal charges and P&ID Ltd BVI and its Nigerian subsidiary (P&ID Nigeria

Limited) were convicted for money laundering and fraud. The charges against P&ID and the judgment of the Federal High Court convicting P&ID are marked Annexure 23(a) and (b) and available at the offices of EFCC.

- vi. Criminal charges were also filed against Grace Taiga and James Nolan in relation to the P&ID matter in October, 2019, still within 15 (fifteen months) from the date of the HAGF's letter. The criminal charges filed against Grace Taiga, James Nolan and associated companies of P&ID are marked as Annexure 24 and available in the records of the EFCC for verification by the Panel.
- vii. In relation to the award proper, a team of FGN agencies comprising officers of the Commission, Ministry of Justice, the Nigerian Police Force (NPF), the Ministry of Information and the Central Bank of Nigeria, went to London to strengthen the UK legal team engaged by Nigeria on the case, particularly as it relates to the application for stay of execution of the judgment. The application for stay of execution was granted.

viii. The FGN's team also liaised with the law firms retained by the Ministry of Justice. Further, and at the behest of the CBN and Ministry of Justice, the FGN retained an alternate law firm to handle the matter which is ongoing.

ix. Another FGN delegation comprising the Commission, the CBN and the NPF met with the INTERPOL in Lyon and agreed on requisite documents to be furnished to the INTERPOL and the sharing protocols in respect of the documents.

x. On 8 May, 2020, the Commission finished the compilation of all the requisite documents and sent them to INTERPOL. The acknowledged copy of the letter by the INTERPOL is marked as Annexure 25 and available in the records of the EFCC for verification.

xi. The directive of Mr. President to the HAGF is dated 26 June, 2018 and the letter from the HAGF to the Commission is dated 28th June, 2018. Within 15 (fifteen months) from the date of the letter of the HAGF, the Commission had concluded investigations, filed charges and secured a conviction against P&ID Limited BVI and P&ID Nigeria

Limited. By any standard in the world, this is exemplary and commendable.

xii. I have also ensured that criminal charges were filed against Mrs. Grace Taiga, the then Director Legal Services of the Ministry of Petroleum Resources and Mr. James Nolan, the in-country-manager of P&ID Limited of BVI. Furthermore, a warrant of arrest has been obtained against Brendan Cahill, the key personality currently behind P&ID Limited of BVI. In addition, criminal charges for economic crimes have been finalized against eight other associate companies of P&ID Limited.

xiii. The staggering volume of work done by the EFCC in less than one year is unprecedented and has received the commendation of the off-shore lawyers. Indeed in the course of proceedings for the stay of execution, Justice Butcher acknowledged that Nigeria has established "seismic fraud" in the matter and that P&ID Limited of BVI has been shown to be a briefcase company. It is therefore surprising to allege that the Commission has been tardy in investigating the matter.

4.12 Sirs, contrary to the allegation that the Commission failed to forward to the Office of the HAGF and Minister of Justice, documents and charges against P&ID and related companies, for onward transmission to the Nigerian Police and INTERPOL, I know as a fact that:

i. The Office of the HAGF has always been part of the FGN team in this matter coordinated from the CBN and cannot contend that it was starved of documents or necessary information. The Ministry of Justice was part of the team, alongside the Commission, CBN, NPF and the Ministry of Petroleum Resources that held regular meetings during which all necessary documents were circulated to team members and discussed.

ii. In any case, it should be noted that the crux of the letter which the Commission allegedly refused to respond to was in relation to documents that were to be given to the Police to forward to INTERPOL. It is necessary to further clarify that from the date of the said letter of the HAGF sometime in December 2019, arrangement was made for Nigerian representatives to meet with INTERPOL to establish document sharing

protocol and delineating the exact document required by INTERPOL.

iii. With the concurrence of the HAGF, the said documents were forwarded to the INTERPOL, through Government's delegation comprising representatives of Nigerian Police Force, CBN and the Commission.

ALLEGATION D:

**FAILURE TO PROVIDE TIMELY RESPONSE to
THE INVESTIGATION or CASES/INDIVIDUALS
RELATING TO LEGAL/CONSULTANCY FEES IN
THE PARIS CLUB REFUNDS TO STATES & LGAs**

**4.13 RESPONSE TO ALLEGATIONS IN PARAGRAPH
(16)**

4.14 I entirely deny all the allegations leveled against me in paragraph D of the petition as they are completely false and made in bad faith.

4.15 Gentlemen, contrary to the allegations in paragraph D (15) and(16), I know as a fact and verily believe that:

i. The Commission received a letter from the HAGF on the 10 May, 2016 requesting for investigation of "*the Ministry of Finance and Office of*

the Accountant General of the Federation on why they failed to file processes to defend the matter in suit No: FHCABJ CS 130 2013 Linas International Limited & 238 Ors v. FGN & 3 Ors; why the suit was moved along with the Judge from Calabar to Abuja Judicial Division and who authorized the payment of \$1.6billion".

ii. The HAGF also demanded as follows:

"I also request for further investigation into other necessary details as it relates to the garnishee proceedings and the entire matter as a whole".

The said letter from the HAGF to the Commission is Annexure 26 and available in the records of EFCC for verification.

iii. The commission dutifully and expeditiously performed the task which led to gathering of thousands of pages of judicial and financial documents, records of interviews of witnesses and suspects comprising six volumes of files. While the investigation was in its last lap, the HAGF requested for a report and an Interim Report was forwarded via a letter dated August 1, 2018. Annexure 27 is a copy of the said

letter forwarding the interim investigation report to the HAGF and available in the record of EFCC for verification.

- iv. I also forwarded another updated report to the HAGF via a letter dated the 21 May, 2019. Annexure 28 is a copy of the said letter and available in the record of EFCC for verification.
- v. Recently, the attention of the Commission was drawn to a letter from the Honourable Minister of Finance addressed to the Chief of Staff to the President and another letter from Orji Nwafor-Orizu & Associates addressed to the HAGF applying for payment of millions of United States Dollars purportedly in relation to the Paris/London Clubs debt payment over deductions on accounts of States and LGAs. The said letters are marked Annexure 29(a) and (b) and available in the record of EFCC for verification.
- vi. These letters and the recent clamour for new payments to other entities from the Paris/London Clubs debt repayment over deduction refunds further prompted the Commission to conduct a review of the two reports and the outcome of the review was

communicated to the President via a letter dated 15 June, 2020. This letter to the President is available in the records of EFCC as Annexure 30 for verification.

vii. The case generated several judgments against the FGN which were not appealed by the Ministry of Justice, and these judgments needed to be investigated because of several allegations and counter allegations of fraud cutting across the Judiciary and the relevant MDAs, thereby making the case very complicated contrary to the position of the HAGF that the case is not complicated.

viii. Contrary to the conclusion of the HAGF, the two reports forwarded to him were substantially in agreement and only differ on additional findings premised on new discoveries in the latter report.

ix. A careful perusal of the two reports will reveal that this is not a simple investigation that can be concluded overnight because of claims of hundreds of millions of United States Dollars by multiple claimants anchored on several court judgments from the Federal High Court and the High Court of the

Federal Capital Territory delivered at different times on substantially the same claims of services rendered to States and LGAs. It is not at all in contention that amongst some of the greatest frauds perpetrated on state governments in recent time in collusion with certain officials is the false claim of millions of dollars by fraudulent firms or companies alleging that they were responsible for refunds made to the states by the Paris Club. This Panel can very easily verify from the states how much monies were paid out by them in settlement of such claims which cannot at all be justified.

ALLEGATION D (17)

4.16 Sirs, one of the allegations levelled against me was that I arrogated to myself the right to institute actions and I filed frivolous charges without seeking advice. The case of Dauda Lawal v. EFCC and Sterling Bank were mentioned as reference points.

4.17 That contrary to the allegation in paragraph D (17), I know as a fact and verily believe that:

- i) The power to prosecute cases is not what I can arrogate to myself.

Before my appointment as the Ag. Chairman of the Commission, it had constantly exercised its statutory power to institute criminal charges where prima facie evidence was made out without seeking for the consent of the HAGF. As a matter of fact, the various decisions of our appellate Courts are to the effect that the Commission does not need the consent/fiat of the HAGF to institute criminal charges. Please see the cases of AMADI v. FRN (2008) 18 NWLR. (Pt.1119) 259 at 275276; AKINGBOLA v. FRN (2012) 9 NWLR (Pt.1306) Pg.511 at 532; SEBASTINE ADIGWE v FRN (2013) BANKING AND FINANCIAL LAW REPORT (BFLR) 325 at 339),

Therefore, the power to institute criminal charges by the Commission is derived from statutes (Please see the EFCC Act, 2004) and judicial authorities listed above.

ii) Notwithstanding the position of the law, and the powers statutorily conferred on the Commission to institute criminal proceedings, I have constantly briefed the HAGF in respect of our activities. Apart from my direct briefings, I also appointed a Liaison Officer to coordinate the official relationship

between the Commission and the Federal Ministry of Justice.

4.18 RELEVANT FACTS ON DAUDA LAWAL'S CASE

4.19 As a result of the confidence reposed in me and the Commission, an Intelligence was shared with me on the various fraudulent activities of the former Minister of Petroleum Resources, Mrs Diezani Allison-Madueke and some top management officials of the Nigerian National Petroleum Corporation (NNPC) to wit: the two former Group Executive Directors Finance and Accounts, Dr Stanley Lawson and Bernard Otti, former Group Managing Director of PPMC, Prince Momoh, former Group Managing Director Crude Oil Marketing Division, Gbenga Olu Komolafe, the Group Managing Director, Nigerian Products Marketing Company (NPMC), Umar Farouk Ahmed and top bank officials of Fidelity Bank, Sterling Bank, Access Bank and First Bank.

4.20 The intelligence was thoroughly analyzed and investigated, wherein the following findings emerged:

- a) Sometimes in December, 2014 the former Minister of Petroleum Resources, Diezani Allison-Madueke invited the Managing Director of Fidelity Bank, Mr. Nnamdi Okonkwo to

meet her in her Abuja office where she informed him that funds will be brought to Fidelity Bank on her instruction and that it shall be kept in the bank pending her further instructions.

b) A whopping US\$153,310,000 (One Hundred and Fifty Three Million, Three, Hundred and Ten Thousand United States Dollars) was brought to Fidelity Bank Plc on behalf of Mrs. Diezani Alison-Madueke as follows:

- Gbenga Olu Komolafe, former Group Managing Director, Crude Oil Marketing Division, NNPC brought the sum of \$70 million (Seventy Million United State Dollars).
- Prince Haruna Momoh, former Group Managing Director, Petroleum Products Management Company (PPMC) brought the sum of US\$50,000,000 (Fifty Million United States Dollars),
- Umar Farouk Ahmed, Group Managing Director of Nigerian Products Marketing Company (NPMC) brought the sum of \$70million (Seven Million United States Dollars),

- Stanley Lawson brought the sum of US\$21, 980,000 (Twenty One Million, Nine Hundred and Eighty Thousand United States Dollars) which sum was delivered to Martins Izuogbe of Fidelity Bank at Sofitel Hotel, Ikoyi, Lagos.
 - Babajide Sonoiki of Sterling Bank Plc brought the sum of US\$3,500, 00 (Three Million, Five Hundred Thousand United State Dollars). This sum was also delivered to Martins Izuogbe.
- c) Upon the receipt of these funds and on the instruction of Mrs. Diezani Alison-Madueke, the sum of US\$88,310,000 (Eighty Eight Million, Three Hundred and Ten Thousand United States Dollars) was fraudulently disbursed to Sterling Bank Plc whilst the sum of US\$65,000,000 (Sixty Five Million United States Dollars) was released to Dauda Lawal of First Bank Nigeria Plc.
- d) That out of the sum of US\$88,310,000 received by Sterling Bank, the sum of US\$5,000,000 was further disbursed to Herbert Wigwe, the Managing Director of Access Bank and

the remaining US\$83,310,000 was invested by Sterling Bank in an off balance sheet investment to yield an annual interest of 5 % using their former subsidiary Sterling Asset Management Limited (SAMTL).

- e) That out of the US\$65,000,000 (Sixty-five million United States Dollars) received by Dauda Lawal, the sum of US\$25,000,000 (Twenty-five Million United States Dollars) was later converted to the sum of N5,050,000,000 and transferred from First Bank Nigeria Plc to Sterling Bank for the acquisition of a five-star hotel called the Ogeyi Place Le-Meridian Hotel situate at Tombia Street, Port Harcourt, Rivers State.
- f) Dauda Lawal and Sterling Bank Plc admitted receiving the funds from Fidelity Bank.
- g) The sum of N9,080,000 was recovered from Dauda Lawal as the Naira equivalent of the Dollars received by him.
- h) The Commission filed a non-conviction based forfeiture Action in suit FHC/L/CS/13/2017 before the Federal High Court, Lagos Division and urged the Court to forfeit the sum N23,446,300,000.00 (Twenty Three

Billion, Four Hundred and Forty Six Million, Three Hundred Thousand Naira) recovered by the Commission from Sterling Bank Plc., the sum of US\$5,000,000 (Five Million United States Dollars) recovered from Herbert Wigwe, MD/CEO of Access Bank and the sum N9,080,000,000.00 (Nine Billion, Eighty Million Naira) recovered from Dauda Lawal.

- i) On 16 February, 2017, the Federal High Court forfeited the aforementioned funds to the FGN.
- j) The Commission having established a prima facie case against the suspects preferred a criminal charge No. FHC/L/419/2018 in the Federal High Court, Lagos Division. The criminal charge sheet is attached as Annexure 34 and available in the records of the EFCC for verification.
- k) Upon the filing of the criminal charges, the defendants adopted many delay tactics for almost a year and after a careful review of the case by the prosecuting counsel, it was agreed that expeditious determination of the case will only be achieved if the defendants are charged separately.

- l) As a result of this decision, the charge was amended on 14 November, 2019. Attached as Annexure 35 is a copy of the amended charge sheet and the record of proceedings where the prosecution stated the reasons for the amendment of the charge and available in the records of EFCC.
- m) On 2 April, 2019, Dauda Lawal filed a notice of Appeal before the Court of Appeal, appealing against the final order of forfeiture of the funds.
- n) The Commission prepared the Respondent's brief and argued same before the Court of Appeal. On the 25 March, 2020, the Court of Appeal delivered its judgment, directing the Commission to release the sum of N9, 080,000,000.00 to Dauda Lawal.
- o) Being dissatisfied with the said Judgment, the Commission promptly filed a notice of appeal to the Supreme Court, Compiled and transmitted record and the said appeal has been entered as Appeal No: SC/CV/212/2020 at the Supreme Court. The notice of appeal to the Supreme Court and the evidence of transmission is marked as Annexure

36 and available in the record of EFCC for verification.

p) That all these recoveries were made in draft and lodged in the recovery account of the Commission domiciled in the CBN.

4.21 RESPONSE TO ALLEGATION D18)

4.22 I categorically deny the allegation of the HAGF that I breached the provisions of the Oath of Official Secrecy Act and the confidentiality of persons under investigation.

4.23 The HAGF has not cited a particular case or instance where it is conclusively shown or proved that I have committed the alleged breach.

4.24 On allegation of breach of confidentiality of persons under investigation, it is important to state that immediately a suspect is invited or arrested pursuant to ongoing investigation, the standard procedure is to process him and release him on administrative bail. While the processing is going on, such suspects are always allowed to be visited by family and friends of their choice pending the perfection of their administrative bail conditions. Such suspects are also always released to

reliable sureties who in most cases are not even related to the suspects. But because such visits and conditional release on bail are part of the suspect's constitutional rights enshrined in Chapter IV of the 1999 Constitution (as amended), the Commission or myself cannot breach such rights and it is therefore apparent from such procedures that the public will definitely know that such suspects are under investigation for particular allegations as it is always stated in their bail conditions which is always given to them and their legal Counsel. Also, sometimes the suspects release the information about the ongoing investigations against them to the public for various reasons. Therefore, the allegation of leaking identity of suspects under investigation and breach of Oath of Secrecy Act is misplaced and categorically denied.

4.25 RESPONSE TO D(19)

4.26 Sirs, I also vehemently and unequivocally deny the allegation that as a consequence of the breach of Oath of Secrecy Act, criminal suspects seek ways to bribe me or the investigators. I challenge my accuser to show evidence of where and how I was bribed by any suspect. This false allegation is most unfortunate, spiteful, malicious and

intended to cruelly destroy my hard-earned reputation.

4.27 It is also not true that the National Crime Agency (NCA) has refused to share information with the Commission. The NCA still shares critical information with the Commission and conducts joint operations with the Commission under the Combined Inter-Agency Task Force (CIATF) and also directly. Classified documents in this regard can be produced for sighting on request and with the consent of the NCA. The Commission is also jointly working with the NCA on several cases including the Diezani Allison-Madueke cases and all the Mutual Legal Assistance (MLA) requests on these cases are passed to the NCA and the Crown Prosecution Services through the Central Authority Unit (CAU) of the Ministry of Justice, contrary to the allegations of the HAGF. Attached and marked Annexure 37 (a) & (b) are copies of such MLA correspondences passed to the United Kingdom (UK) authorities through the HAGF on these cases.

4.28 It is also worthy of note that since the execution of all the requests and forwarding of the evidence to the UK authorities, Diezani Allison-Madueke is yet to be charged to Court by the UK

authorities. The Commission, through the HAGF therefore requested the UK authorities to extradite Diezani Allison Maduke to face the pending charges against her in Nigeria and till date the HAGF has not communicated back to the Commission on the position of the UK authorities on this request. Attached and marked as Annexure 38 is the extradition request.

4.29 The Commission, under my leadership, also has good working relationship with the United States Federal Bureau of Investigation (FBI) which recently acknowledged this relationship by commending the Commission publicly and on record. Annexure 39 is a copy of the plaque/commendation letter from the FBI to the Commission and available in the record of EFCC.

4.30 Also the United States Attorney's Office District of Nebraska in its release dated 16 June, 2020, thanked the Commission and further states: "The Department of Justice and the Federal Bureau of Investigation wish to thank their partners in Nigeria particularly the Economic and Financial Crimes Commission, the Federal Ministry of Justice and the National Central Bureau, Abuja Interpol (Nigeria Police Force) for their past and continued assistance in pursuing those that

engage in business Email Compromise and other fraud schemes" The said release is marked Annexure 40 and available in the record of EFCC.

4.31 The HAGF also alleged that the NCA reported that I compromised the investigation of a British - Nigerian, one Mr. Livister Mbaeri. I state categorically that is utter falsehood. I challenge the petitioner to produce evidence of my alleged compromise.

4.32 I will also state on record that the Commission, under my leadership has made several requests for the extradition of high profile Nigerian Fugitives through the Office of the HAGF and till date, there is no response from the HAGF on these extradition requests that are critical to the anti-corruption drive of this administration. Some of these fugitives include Robert John Oshodin, who laundered millions of United States Dollars on behalf of former National Security Adviser (NSA), Colonel Sambo Dasuki (rtd), Former Special Adviser to the President on Niger Delta and Chairman of Presidential Amnesty Programme, Kingsley Kuku, who was criminally indicted by THE INVESTIGATION OF ARMS PROCUREMENT conducted under the former NSA Colonel Sambo Dasuki (rtd). Attached and marked

as Annexure 41 (a) - (e) are copies of the extradition request for these fugitives available in the record of EFCC.

4.33 The Commission also forwarded a Mutual Legal Assistance request to the HAGF for onward transmission to the authorities of the British Virgin Island through a letter dated 9 September, 2019 wherein the Commission requested for critical information in respect of the P&ID case but the Commission is yet to receive any response from the office of the HAGF. Attached and marked as Annexure 42 is a copy of the MLA request dated 9 September, 2019. Annexure 42(a) is some other MLA requests to HAGF still pending for the HAGF's attention.

4.34 ALLEGATION E.

THREATENING OF JUDICIAL OFFICERS:

4.35 I unequivocally deny the entirety of the allegation that I threatened Judicial Officers. This allegation to say the least is not only untrue but made to tarnish my name and the corporate integrity of the Commission. In the exercise of my official duties, I have had no cause to threaten

anybody, let alone a serving Judicial Officer.

4.36 Contrary to the allegation that I threatened judicial officers particularly Honourable Justice Binta Nyako, I know as a fact and verily believe that:

i. The Commission, in the course of performing its statutory duties and functions, discovered that one Sebore Farms & Extension Services Limited which received and retained various proceeds of unlawful activities, has Honourable Justice Binta Nyako as one of its Directors. Currently, the company is standing trial alongside Admiral Murtala Nyako (a spouse of the Honourable Justice Binta Nyako) in criminal charge No. FHC/ABJ/293/2015 between the FRN v. Murtala H. Nyako & 8 Ors pending before the Honourable Justice E.O. Abang.

ii. The Commission wrote to the Honourable Chief Judge of the Federal High Court, applying that the Honourable Justice Binta Nyako recuse herself from matters instituted by the Commission. The letter to the Hon. Chief Judge is attached and marked as Annexure 43.

iii. Though the Honourable Chief Judge of the Federal High Court, in his wisdom, declined the request of the December, 2018, His Lordship, Honourable Justice Binta Nyako, having realized that justice is rooted in confidence, recused herself from all the matters instituted by the Commission and pending before her.

iv. The Hon. Justice Binta Nyako delivered judgment in a civil suit No: FHC/ABJ/CS/446/2017 Mohammed Bello Adoke v. Attorney General of the Federation wherein her Lordship at page 23 of the judgment held as follows *"On whether the plaintiff can be held personally liable for acts done in furtherance of the lawful directives/approvals of the President, I have examined paragraph 4a, 4bb and 4cc of the Affidavit in Support of the Originating summons as well as Exhibits 10A&10B, and 11A &11B. Exhibit B is a Presidential approval directing the plaintiff to implement the Block 245 Resolution Agreement, while Exhibit 10B is the approval by the President for Malabu Oil and Gas Limited to be paid US1,080,040, 000.00 Billion Dollars in settlement of the dispute. I am therefore in agreement with the Plaintiff's submission that he was*

merely carrying out lawful directives of the President and that a principal and agent relationship is created where the President assigns a responsibility to a minister appointed by him pursuant to section 147 and 148 of the Constitution'.

Copy of this judgment is herewith attached and marked as Annexure 44 and available in the records of the EFCC for verification.

v. The pronouncement of My Lord Justice Binta Nyako as quoted above is extremely prejudicial to criminal Charge No. FHCIABJ/CR/268/2016, between FRN v. Malabu Oil and Gas Limited & 7 Ors and Charge no FHC/ABJ/CR/39/2017 between FRN v. Mohammed Bello Adoke & Anor filed by the Commission and was subsequently assigned to His Lordship, Hon. Justice Binta Nyako.

vi. The Commission was left with no option than to inform the Honourable Chief Judge about the state of affairs and why it believes that justice will not be done to the FGN if those criminal charges are assigned to Hon. Justice Binta Nyako. A copy of the letter to the Hon. Chief Judge of the Federal High

Court dated 13 February, 2020 is marked as Annexure 45 and available in the records of EFCC.

vii. That as a result of the above letter, His Lordship recused herself and the matter has since been assigned to another Judge of the Federal High Court that we believe will do justice to all parties in the proceedings.

4.37 ALLEGATION F (21) AND (22)

4.38 In paragraph 2, it was alleged that the HAGF was in receipt of several petitions against me wherein allegations of personal enrichment, abuse of office and the fact that I am occupying the office illegally. According to the HAGF, these petitioners have gone to Court to express their anger with this administration for failing to act in line with the EFCC Establishment Act, 2004 in the appointment of Executive Chairman and the Board of the EFCC.

MY RESPONSE:

4.39 Sirs, permit to state that I am not privy to any allegations contained in the petitions purportedly received by

the HAGF against me. However, I know as a fact and verily believe that:

- i. In the exercise of my official functions as Ag. Chairman of the Commission, I have stepped on toes in ensuring that Corruption is fought to a standstill in Nigeria.
- ii. Some of the suspects under investigation and prosecution are always ganging up to fight me back, publishing false, untrue, malicious and libelous allegations against me.
- iii. I have never abused the office I am occupying at the pleasure of Mr. President.
- iv. I have never personally enriched myself whilst performing my official function. I challenge my accusers to produce any evidence of this purported personal enrichment.
- v. Regarding the issue of several petitions over the legality of my continued stay as the Acting Chairman of the EFCC without Senate's confirmation, I wish to state that the judgment of Hon. Justice Ijeoma Ojukwu of the Federal High Court, Abuja Judicial Division has laid to rest any issue arising from my appointment.

- vi. In his landmark judgment delivered on December 4, 2019, Hon. Justice Ijeoma Ojukwu dismissed the five consolidated suits against me on the ground that there is no time limit within which I can act as the Chairman of the Commission and that the President Muhammadu Buhari has the proverbial "yam and knife" to keep me in office as long as he pleases.
- vii. The Court even went further to urge Mr. President to do the needful and forward my name to the Senate for confirmation in the interest of the Commission and the General Public.
- viii. It is worthy of note that the defendants in the consolidated suits were the Senate President, Attorney-General of the Federation (AGF), EFCC and my humble self.
- ix. I wish to state that out of 12 suits instituted to challenge the legality of my tenure, seven of those suits were struck out for lack of diligent prosecution.
- x. Of the remaining five Suits, four of them urged the Court to declare my stay in office as illegal since my nomination by President Buhari was

twice rejected by the Senate while the fifth suit urged the court to hold that I could validly remain as the Acting Head of the EFCC despite Senate's refusal to confirm my appointment.

- xi. His Lordship, Hon. Justice Ijeoma dismissed the five consolidated suits challenging the legality of my appointment. Attached and marked Annexure 46 (a)-(e) are the Certified True Copies of the five judgments.

4.40 ALLEGATION F(22)

4.41 The Petitioner in Paragraph F (22) states: "One of the Court applications that were filed in March 2020 seeks to determine the legality or illegality of the Acting Chairman occupying the Office without an appointment letter. Your Excellency is also aware that the Board of EFCC has not been constituted since 2015. This is in total breach of the EFCC Act and the Public Service rules. Despite this, the Acting Chairman has failed or neglected to submit approvals that are above his limit supervision or for an external body to approve. This is in breach of financial regulations."

MY RESPONSE

4.42 Sir, contrary to the claim of the HAGF in paragraph 22 of the petition, I know as a fact and verily believe that:

i. My letter of appointment, which was duly signed by the appointing authority, was given to me before my assumption of office as the Acting Chairman of the EFCC. Attached and Marked Annexure 47 is a copy of my appointment letter available on request.

ii. The Judgments of Hon. Justice Ojukwu of the Federal High Court which confirms the legality of my appointment are still subsisting until set aside by the appellate court.

iii. It is inappropriate for the HAGF to state that a fresh application has been filed in March 2020 against my tenure at the Federal High Court when he is aware that the issue of the legality of my appointment has been resolved and settled by a judgment of Court of competent jurisdiction as far back as December 4, 2019.

iv. The new suit filed in March, 2020 is nothing but an abuse of court process.

- v. The only option available for the plaintiffs in the suits against me is for them to proceed to the Court of Appeal to seek redress.
- vi. Incidentally, one of the plaintiffs in the dismissed consolidated five suits, Mr. Johnmary Jideobi, has appealed against the judgment of the Federal High Court in Abuja which dismissed his suit, asking for my removal.
- vii. It is also imperative to state that Jideobi also listed the Senate, the AGF, EFCC and my humble self as the respondents to the pending appeal before the Court of Appeal in Abuja.
- viii. But the HAGF deliberately refused to disclose these facts in his allegations against me.
- ix. Regarding the non-constitution of the EFCC Board since 2015, the Petitioner is aware that the appointment of the board members is the prerogative of Mr. President and not within my statutory powers.
- x. In the exercise of my functions as the Ag. Chairman of the Commission, I have not taken any decision without the requisite approvals. The

allegation that I have failed or neglected to obtain approvals from external authorities in breach of financial regulations is untrue and totally misconceived and unfounded.

4.43 Above represents my defence to the allegations read by me on various social media platforms and traditional newspapers. I also rely on my letters to the panel refuting some of the allegations falsely published against me in the media, many of these allegations have been denied with apologies by the newspapers that orchestrated the publications.

4.44 I will further make available to the panel, additional materials to address all other allegations to which my attention may be drawn subsequent to this presentation.

5.0 CONCLUSION

5.1 My Lord and Gentlemen, all my actions are documented and follow the prescribed procedures with necessary approvals. I am innocent. I have served my country to the best of my abilities with all sense of responsibility and integrity.

5.2 The records of achievements to the glory of God and this administration

are there for all to see. I respectfully invite the panel to note the Stellar and unprecedented achievements of the EFCC under my watch as the Acting Chairman. A list of some of the achievements is the attached **Annexure 1.**

5.3 In the context of these achievements, my plea to the panel is to consider these achievements in strengthening my innocence.

5.4 I recall that President Muhammadu Buhari had in a letter sent to the Senate in 2017 through the then Secretary to the Government of the Federation (SGF) Babachir Lawal, cleared me of all allegations of corruption and misconduct, based on the report of the current HAGF Abubakar Malami SAN. A copy of the letter is in the custody of the HAGF and the 8th Senate for ease of reference.

5.5 I intend to furnish additional materials on what, in my opinion precipitated these baseless allegations in spite of the stellar achievements on anti-corruption of the President Buhari administration with my modest contributions. This will be forwarded to this distinguished panel as an ADDENDUM.

5.6 My Lord, Gentlemen, please accept my best personal regards and thank you for service to country.

Ibrahim Mustafa Magu