

# STATEMENT TO THE MYBURGH COMMISSION OF ENQUIRY INTO AFFAIRS AT CORPCAPITAL

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## 1. INTRODUCTION

This Memorandum has been prepared in compliance with a directive from the Commission of Enquiry into affairs at Corpcapital, headed by Advocate John Myburgh.

P-E Corporate Services SA (Pty) Limited ("P-ECS") were retained as advisors to the Remuneration Committee and Board of Corpcapital in November, 2001. The Memorandum details the scope of consulting work carried out for the Remuneration Committee and Board between November, 2001 and February, 2003. It also describes certain related activities.

It deals, sequentially, with :

- (i) P-ECS' initial terms of reference and work carried out during November and December, 2001.
- (ii) The extent to which P-ECS had any involvement in determining executive bonuses for the financial year to August, 2001.
- (iii) Work carried out between March and July, 2002.
- (iv) Work carried out between August and October, 2003.

## Statement to the Myburgh Commission of Enquiry into Affairs at Corpcapital

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- (v) Telephonic discussion and correspondence with Old Mutual Asset Managers regarding incentive bonus payments made to Corpcapital executives in respect of the 2001 financial year.
- (vi) Meetings with Mr Benji Liebman of Corpcapital during February, 2003.

P-ECS is a firm of management consultants, first established in South Africa in 1950. The company provides management and human resource consulting services to clients, which include the publication of national, regional and industry-specific salary surveys and advice on all aspects of compensation strategy, policy and practice. P-ECS has a wide and diverse client base spanning most sectors of the South African economy. The company's salary surveys are based on remuneration data provided by 800 South African companies employing some 1,5 million staff.

P-ECS staff involved in providing services to Corpcapital during the abovementioned period were :

- M J R Westcott, a Principal Consultant and Management Director of P-ECS.
- T D Thomson, a Principal Associate Consultant; and
- A Slotar, a Principal Remuneration Consultant.

Curricula Vitae of these professional staff are included as Annexure A to this document.

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1. INITIAL TERMS OF REFERENCE AND WORK CARRIED OUT DURING NOVEMBER AND DECEMBER, 2001

1.1 Consultants' Brief

P-ECS was commissioned to advise the Remuneration Committee of Corpcapital on certain aspects of remuneration policy and practice during November and December, 2001.

P-ECS' brief was discussed and agreed at a meeting between Mr N J Frangos, in his capacity as Chairman of the Remuneration Committee, and M J R Westcott, on 9 November, 2001. During this meeting Mr Frangos :

- briefly described the historical development of the Corpcapital group;
- shared certain concerns he had about corporate governance-related issues and practices within the group;
- commissioned P-ECS (subject to subsequent ratification by the Board) to provide certain services to the Remuneration Committee.

The corporate governance-related concerns raised by Mr Frangos at this meeting included :

- that remuneration-related decisions were being made by Corpcapital executives without reference to properly constituted meetings of the Remuneration Committee. These included decisions on, for example, remuneration levels for executives, special payments

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such as restraint payments and retention bonuses, incentive payments, and repricing of share options;

- that remuneration policy and procedures at this level had not been agreed, documented or approved by the Board;
- that attempts to convene regular meetings of the full Remuneration Committee had proved difficult to arrange.

Nevertheless, it had now been agreed that the Remuneration Committee would meet formally during the next week and begin to exercise its proper role on behalf of the Board. This agreement had been encouraged by the publication of the King Reports on Corporate Governance, a discussion with Mr Mervyn King and persistent efforts by Mr Frangos himself.

P-ECS' assistance to the Committee in three areas, was discussed :

- the determination of market-related levels of guaranteed remuneration for Corpcapital executives;
- advice on incentive scheme design, targets and payments to executives; and
- computation of market-related remuneration levels for non-executive directors.

In view of the tight time deadlines it was agreed that P-ECS would, as a first step, carry out an urgent market benchmarking exercise to assess

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the market relatedness of guaranteed remuneration packages of Corpcapital executives, in time for consideration by the Remuneration Committee the following week. A report benchmarking non-executive directors remuneration against the market would be submitted at a later stage.

It was also agreed that P-ECS would not have sufficient time to conduct a meaningful review of executive incentive arrangements, and report on these by 16 November, 2001.

A review of incentive scheme design principles, targets and general policy (including market practice comparisons) was considered important, however, and would be commissioned in due course.

#### **1.2 Attendance at Remuneration Committee Meetings**

The meetings of the Remuneration Committee and Board had been scheduled for 13 and 16 November, 2001 and P-ECS was requested to attend these meetings.

The meeting on 13 November was attended by M J R Westcott and T D Thomson. The meeting on 16 November was attended by Mr Thomson alone, on behalf of P-ECS.

At the meeting on 13 November, inter alia :

- P-ECS' appointment as advisors to the Remuneration Committee was confirmed;

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- It was noted that P-ECS was preparing a report benchmarking guaranteed remuneration packages of Corpcapital's six executive directors and fifteen other senior executives (with annual package values exceeding R1 million) against current market rates. This would be completed in time to be tabled at the meeting on 16 November, 2001;
  - A report benchmarking non-executive directors' remuneration would be submitted to the Board, as soon as possible;
  - There was an urgent need to draw up rules and procedures covering all aspects of executive compensation policy as well as a code of conduct for executive directors and P-ECS would be asked to assist in this regard.

The two abovementioned reports (benchmarking of executive remuneration and non-executive directors remuneration) were duly completed and submitted to the Chairman of the Remuneration Committee on 15 November and 27 November, 2001, respectively.

## **2. THE EXTENT OF P-ECS' INVOLVEMENT IN DETERMINING EXECUTIVE BONUSES FOR THE FINANCIAL YEAR TO AUGUST, 2001**

Bonuses payable to Corpcapital executives in respect of the financial year to August, 2001 were discussed and debated at the Remuneration Committee meetings on 13 and 16 November, 2001. P-ECS' consultants present at these meetings were requested to comment, from time to time, on certain of the issues raised.

In our view, the debate was a difficult one, hindered by the fact that :

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- incentive scheme policy and rules had not been documented and agreed by the Remuneration Committee at any time in advance of the debate;

and

- individual, work team and/or group performance measures and targets had not been pre-agreed.

In the circumstances the Committee had to rely on recommendations motivated by Chief Executive Officer, Mr Jeff Liebesmann, supported by Executive Director, Mr Errol Grolman, in respect of each senior executive's performance. As far as the quantum of incentives to be paid was concerned, a hurdle rate formula was tabled and proposed as a basis for this, by the executive directors.

The Committee applied its mind and accepted most of Mr Liebesmann's recommendations in good faith. It was confirmed that incentive scheme policy would be agreed and properly documented in future. The Committee also applied its mind to determining Mr Liebesmann's incentive as objectively and fairly as possible, given the absence of firm principles, targets and guidelines. Mr Liebesmann was recused during this part of the debate.

There was observable tension between certain executive and non-executive directors during much of the above debate. However, at the conclusion of the meeting the impression was that some progress had been made in improving procedure in this area.

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P-ECS did not contribute directly to discussion on the quantum of bonuses to be paid to executive directors or the suitability of the proposed hurdle rate formula, for this purpose. P-ECS' contributions in this regard dealt with general policy and were limited to :

- preparing a file of background reading material for Remuneration Committee members dealing with various policy issues which included incentive scheme principles, policy and practice;
- submitting Memoranda to the Remuneration Committee Chairman on 14 and 16 November, 2001, commenting on certain of the issues raised at the Committee meeting on 13 November.

These included :

- how the proposed formula might be adapted and used as a basis for setting performance targets and subsequently determining incentive payments during the following (2002) financial year;
- the need for broad approval of the incentive formula (eliminating the potential conflict of interest in allowing executive directors to fix the measure by which their own incentive payments would be computed);
- the fact that including unrealized profits on non-traded assets in incentive calculations (as had been proposed for the 2001 year) was unconventional in merchant banking.

### 3. WORK CARRIED OUT BETWEEN MARCH AND JULY, 2003<sup>2</sup>



P-ECS consultants met with the Remuneration Committee Chairman, Mr Frangos, on 8 March, 2002. During this meeting Mr Frangos instructed P-ECS to prepare a manual of policies and procedures documenting senior executive remuneration policy at Corpcapital.

Comprehensive notes were made available to the consultants to assist this task. The notes detailed procedures that had been approved by the Board. Apart from checking that the policies did not contravene the King Report guidelines or good practice, the

consultants were asked to adhere as closely as possible to the draft provided.

A number of drafts were prepared and reviewed. The manual, in final form, and entitled "Senior Executive Remuneration Policy and Practices" was submitted to the Remuneration Committee Chairman in July, 2002. Content includes :

- a remuneration policy statement;
- a remuneration committee charter;
- a code of conduct (covering in particular, potential conflicts of interest;
- executive incentive scheme rules.

#### 4. WORK CARRIED OUT BETWEEN AUGUST AND OCTOBER, 2002

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After further briefings and instruction from the Chairman of the Remuneration Committee, P-ECS carried out the following work on behalf of the Committee :

- a study, benchmarking guaranteed remuneration earned by the twenty-two senior Corpcapital executives who earned more than R1 million per annum, against prevailing market rates. The report on this study, carried out in more detail than the previous

(November, 2001) study, was submitted to the Chairman of the Remuneration Committee on 22 August, 2002;

- a report reviewing current market practices, trends and benchmarks with respect to executive incentives (both within all sectors and the financial services sector in particular). This report was submitted on 14 October, 2002;
- an updated report on market rates of non-executive directors' remuneration also submitted on 14 October, 2002.

M J R Westcott of P-ECS also attended, by invitation, Remuneration Committee meetings held on 27 August and 15 October, 2002, at which the above reports were discussed.

While a sounder basis now existed for determining executive incentives, the discussion on this topic was again difficult. Group performance, based on the pre-agreed formula yielded a "nil" bonus entitlement in most cases. The Remuneration Committee, however, gave a fair hearing to the Chief Executive's expressed concerns that complete forfeiture of

bonuses would place the group at serious risk of losing key skills. Payments in lieu to key executives were agreed to minimize this risk.

**5. DISCUSSION AND CORRESPONDENCE WITH OLD MUTUAL ASSET MANAGERS ON 2001 INCENTIVE PAYMENTS**

On 23 January, 2003 I (M J R Westcott) was contacted by Jeanine van Zyl and Richard Hasson of Old Mutual Asset Managers

(O.M.A.M.). They sought clarification of our role as Remuneration Committee advisors to Corpcapital and, in particular, what part we played in determining executive incentive payments in respect of the 2001 financial year. (At this stage I was aware that Mr Liebesmann had communicated certain information about our involvement to Old Mutual but had not seen the letter concerned. A copy of this letter was, however, faxed to me by Mr Frangos on 24 January, 2003, after a telephonic discussion with him).

I responded by informing them of the broad scope of work we had carried out, but was not prepared to divulge any client-specific detail without the prior consent of our client, Corpcapital. I did, however, at this stage confirm to O.M.A.M. that our involvement in determining incentive payments was minimal and limited to discussion on general principle. I noted that our formal appointment as remuneration advisors had only been confirmed a few days before decisions on incentive payments were taken.

I advised the Chairman of the Board, Mr Eric Ellerine, of my discussion with O.M.A.M. in writing. A copy of this letter was forwarded to O.M.A.M. It records and confirms the content of my discussion with O.M.A.M. The letter is included as Annexure B.

**6. MEETINGS WITH MR BENJI LIEBMANN, EXECUTIVE DIRECTOR OF CORPCAPITAL, DURING FEBRUARY, 2003**

During February, 2003 I was contacted by Mr Benji Liebmann. He requested that we meet to discuss and clarify P-ECS' role in

influencing the determining of executive incentive payments in respect of the 2001 financial year.

A first meeting with Mr Liebmann was held on 5 February, 2003. It was evident during discussion that Mr Liebmann's view that P-ECS played a major role in determining the 2001 incentives differed fundamentally from mine.

The meeting terminated after 40 minutes as Mr Liebmann had a prior engagement.

I prepared a subsequent Minute of this meeting which is appended (Annexure C). I also wrote to Board Chairman, Mr Eric Ellerine (on 10 February, 2001) to confirm P-ECS' view of events. This letter is included as Annexure D.

Mr Liebmann and I resumed our prior discussions on 11 February, 2003, in a meeting which lasted approximately two hours. During this meeting Mr Liebmann again questioned our role in determining the 2001 incentives and made every effort to persuade me that our role was substantial and fundamental to the decisions taken. He requested that we apologise for omitting this detail from our previous correspondence.

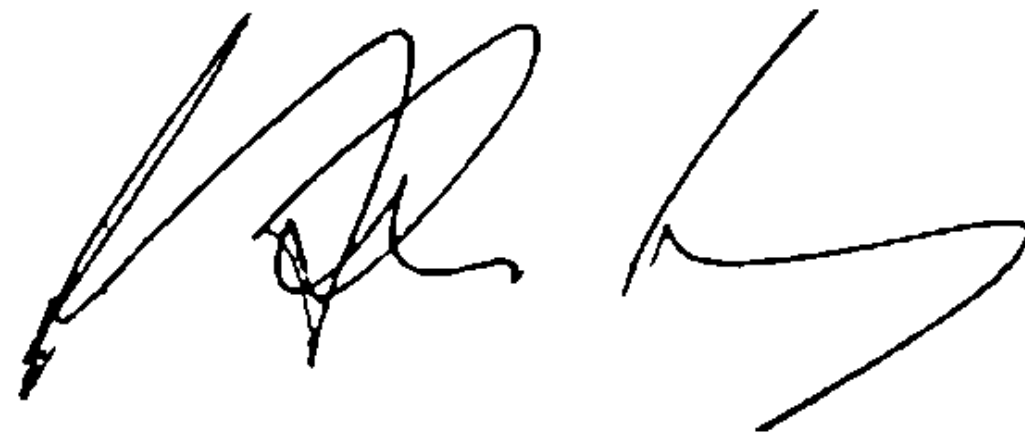
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I refused to be persuaded to his point of view and we were again unable to reach any consensus. I did, however, agree to review a draft letter from him in which he would describe our role, based on our respective inputs to this meeting.

I again prepared a Minute of the meeting which is attached as Annexure E.

I subsequently received the draft letter from Mr Liebmann, but could not agree with all of its content. As a result I redrafted the letter using the same sequence and overall format. This letter is appended, as Annexure F.

A handwritten signature in black ink, appearing to be 'M J R Westcott', written in a cursive style.

M J R WESTCOTT  
P-E Corporate Services SA (Pty) Limited

CURRICULUM VITAE

MARTIN J R WESTCOTT

Name

Martin J R Westcott

Position

Principal Consultant and  
Managing Director -  
P-E Corporate Services

Qualifications

B.Sc. (Chemical Engineering) with first class  
Honours in final year Design Thesis (University  
of Cape Town).

Master of Business Leadership (MBL) cum  
laude (University of South Africa) with gold  
medal for best final year case study project.

Fellow and Past President : Institute of  
Management Consultants of Southern Africa.

Registered Professional Engineer (SA Council  
of Professional Engineers).

Registered Personnel Practitioner (Generalist)  
of SA Board for Personnel Practice.

Approved Mentor of SA Board for Personnel  
Practice.

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**Professional and Business  
History**

Three years experience as a project engineer (materials handling product development and sales) with Robert Hudson & Sons (Pty) Limited - now Mitchell Cotts Group.

Three years experience as process engineer on chemical engineering process plant with Synthetic Rubber Co. (Pty) Limited (now Karbochem) and as laboratory technician with AECI Limited.

Over twenty-five years experience in management consultancy in Southern Africa with P-E Corporate Services (previously P-E Consulting Group), including:

- \* Over 200 management consulting assignments concerned with organisation design and strategy, executive remuneration and job evaluation and human resource management in general, as well as in manufacturing, production and engineering management, productivity and marketing. Worked extensively throughout Southern Africa, Africa and internationally.
- \* Over past 10 years has specialized in remuneration strategy and policy, advising a wide range of clients, at both Board/Remuneration Committee and senior executive level. Clients include listed, private and public sector organizations.

4 years as Partner of Price Waterhouse and Director in Charge of the firm's Management Consulting Division (1988 - 1992) during a period (1986 - 1992) in which P-E Corporate Services was owned by Price Waterhouse.

Member of the firm's Policy Board, 1991 - 1992.

Negotiated successful management buy-out of P-E Corporate Services in 1992.

### Specialised Professional Experience

Over 200 published papers and presentations in the areas of manpower, employment and remuneration strategy as well as general management issues. These include presentations to the South African State President's Council, Labour Market Commission, Business School Associations of the Universities of the Witwatersrand and of Cape Town, Annual Conventions of the Institute of Personnel Management, the First Annual Convention of the SA Society for Training and Development, the Institute of Certificated Engineers and a wide variety of other conventions and conferences.

Frequent interviews on remuneration, manpower and general management issues on radio and television, in South Africa and internationally.

Member of various high level task groups appointed to review national manpower issues, and develop professional practice standards on training in South Africa.

### Extra Mural Activities

Active in various community service organisations and interest groups.

Keen sportsman, previously active in cricket, rugby, hockey and squash. Completed



Curriculum Vitae  
M J R Westcott cont'd

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numerous marathons, ultra-marathons, etc., including Comrades Marathon, Argus Cycle Tour, etc.

Hobbies including reading, travel and entertainment.

## 1.2 Assumptions

The price of R12.00 per share is based on the following assumptions:

- 1.2.1 that the information disclosed and to be disclosed to the Ethos consortium in respect of further due diligence is accurate in all material respects and taken in the aggregate is sufficiently complete to enable a prospective financial purchaser of Ahealth to make an informed decision as to whether or not to buy the business and to accurately assess the value of the business:

### CURRICULUM VITAE

#### T D THOMSON

|  |   |
|--|---|
| <b>Name</b>                              | T. Deon Thomson   |
| <b>Age</b>                               | 55 years  |
| <b>Nationality</b>                       | South African   |
| <b>Position</b>                          | Principal Consultant  |
| <b>Qualifications</b>                    | B.Com.(Hons.), LL.B. C.A.(S.A.), H.Dip. Tax Law   |
| <b>Professional and Business History</b> | <p>Partner of auditing practice from 1972 to 1983; subsequently presented tax and financial planning seminars and practised as a general management consultant through to December, 1986; managing director of Financial Research Associates (Pty) Ltd from 1987 to 1992; associate principal consultant of P-E Corporate Services (Pty) Ltd from 1985 to date.</p> <p>Has consulted widely in commerce and industry in South Africa for over ten years in the field of corporate finance, with strong leaning towards human resource issues - notably, management incentive schemes, employee gainsharing and incentive schemes, share participation, employment benefit schemes and remuneration package structuring.</p> |

**Specialised Professional Experience**

Has produced a number of publications including -

“Flexible Remuneration”, P-E Corporate Services SA (Pty) Ltd, 1985; “Management Incentive Schemes In S.A.”, P-E Corporate Services SA (Pty) Ltd, 1986; “Valuation of Business Enterprises”, Sandton Management Consultants (Pty) Ltd, 1987; “Productivity

Partnerships : Case Studies in Labour Productivity (1992)”, P-E Corporate Services (Pty) Ltd, 1992;

“Employee Housing : The Case for Involvement in 1994”, Managed Capital Projects (Pty) Ltd, 1994.

Author of P-ECS’ top level remuneration journal, “Committee of the Board”.

Recent publications in the areas of corporate governance, incentive scheme design and sales force reward structures.

Regularly lectures and trains in areas such as gainsharing and related remuneration concepts, corporate finance and strategic financial planning.

## CURRICULUM VITAE

### ADELE SLOTAR

Name Adele Slotar

Position Principal Remuneration Consultant  
Salary Survey and Remuneration Practice

Qualifications National Intermediate Certificate in Accountancy; Registered practising Estate Agent; various specialist seminars in remuneration and human resource management.

Professional and Business History 30 years of sales experience and related managerial experience in the pharmaceuticals, cosmetics, retail and property fields.

10 years experience as a management consultant specialising in salary survey and related remuneration consulting work.

Specific responsibilities include :

#### Production of Industry-Specific Remuneration Surveys

Responsible for the sales, production and project management of these surveys including survey design and content.

National survey sales and supervision including -

Compilation of questionnaires to participating companies; job descriptions; analysis of market rates; data collection from hundreds of companies; collection of the input and the matching and sorting of various job titles and descriptions amongst the information gleaned plus servicing clients in order to maintain contact, loyalty and commitment.

Diagnosis of remuneration problems and the researching of appropriate recommendations.

Curriculum Vitae  
Adele Slotar

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Production of company specific surveys. Research linking job titles with market rates and the analysis of present remuneration in relation to this.

Staff turnover and remuneration restructuring. Research into conditions of employment and compensation policies such as commission, performance bonus, etc.

Remuneration of Top Executives with regard to justifying salaries to overseas holding companies, and restructuring of packages due to, for example, merging of companies.

Loss of earnings research for legal firms. Have given expert testimony in court.

**Specialised  
Professional  
Experience**

Conducts client presentations and assists in national presentations on key trends in remuneration.

***P-E Corporate Services SA (Pty) Limited***  
***Management Consultants***



24 January 2003

Mr Eric Ellerine  
Chairman of the Board  
Corpcapital Limited  
2 Arnold Road  
ROSEBANK

Dear Eric

Given the publicity and events that have surrounded Nic Frangos' resignation from the Board of Corpcapital, I believe it is important that I inform you that I have been contacted by Old Mutual Asset Managers, in this regard.

I had a telephone discussion with Richard Hasson and Jeanine van Zyl of OMAM yesterday, (Thursday, 23<sup>rd</sup> January, 2003). They asked for some clarification of our role in acting as advisors to the Remuneration Committee. I agreed to inform them of the facts about our role, but that any discussion about the nature of the advice provided was confidential to Corpcapital. It would therefore not be divulged to any third party without your prior written permission.

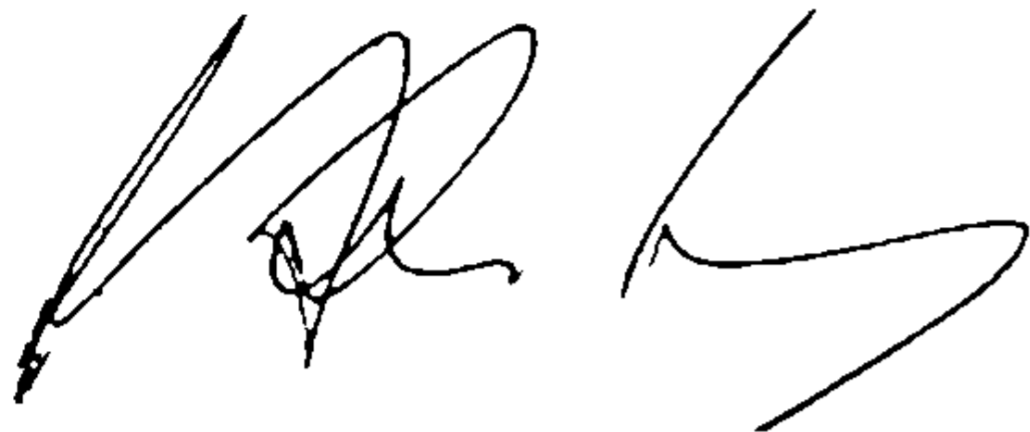
My preparedness to clarify our role was to ensure that P-E Corporate Services' involvement was not distorted or misrepresented in what has become an obviously tense situation. In this regard I understand that OMAM are in possession of some correspondence that makes reference to our role, but I have not seen this.

In clarifying our role I have confirmed that :

- P-ECS was commissioned by the Chairman of the Remuneration Committee of Corpcapital on 9<sup>th</sup> November, 2001 to advise on certain aspects of remuneration;
- Our role and terms of reference involved the following :
  - (i) preparation of an initial report comparing **fixed or guaranteed remuneration levels** of Corpcapital executives with current market rates for discussion at the November, 2001 Remuneration Committee meeting held approximately two weeks thereafter;
  - (ii) a report on **market related remuneration for non-executive directors**, also presented in November, 2001;
  - (iii) preparation (during the first half of 2002) of a **Senior Executive Remuneration Policy document**. Our role in this regard was to document, accurately, policies and procedures that had been agreed by the Board. We also provided some input for Board consideration in this regard such as, for example, a draft code of fiduciary conduct, and suggestions on how incentive arrangements could be structured for the 2001/02 financial year;
  - (iv) preparation of a further report **benchmarking guaranteed pay levels of Corpcapital executives, with market rates, and Non-Executive Directors' remuneration** in August and October, 2002, respectively;
  - (v) preparation of a report on **current market practices and benchmarks, with respect to executive incentives**, in October, 2002.

My best wishes in your efforts to resolve this unfortunate matter.

Yours sincerely

A handwritten signature in black ink, consisting of stylized initials and a surname, appearing to read 'M J R Westcott'.

M J R WESTCOTT  
Managing Director

P.S. My apologies for the delay in forwarding this letter to you. I have been continuously out of the office and in meetings for the past few days.

Copy : Mr Richard Hasson  
Old Mutual Asset Managers



MINUTE OF A MEETING WITH BENJI LIEBMANN OF CORPCAPITAL,  
WEDNESDAY, 5<sup>TH</sup> FEBRUARY, 2003

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I met with Benji Liebmann at his request, at CorpCapital's offices on Wednesday, 5<sup>th</sup> February, 2003. Our discussions lasted approximately 40 minutes.

Most of the meeting was spent discussing and clarifying P-ECS' role in the determination of incentive payments made to executive directors in respect of the financial year ended 31<sup>st</sup> August, 2001. Mr Liebmann expressed concern that no mention was made of any involvement by P-ECS in this process in my letter to Chairman of the Board, Eric Ellerine, dated 24<sup>th</sup> January, 2003.

I explained that this letter described the work we were commissioned to carry out by the Chairman of the Remuneration Committee. Our role in advising about, or determining incentive payments in respect of the 2001 financial year had been negligible, or, at best, insignificant.

Mr Liebmann went to some lengths to suggest that advice provided by P-ECS significantly influenced determination of the 2001 incentive payments. He suggested that a letter submitted to the Chairman of the Remuneration Committee (after its meeting on 13<sup>th</sup> November, 2001) was fundamental in this regard. He also suggested that a hurdle rate formula (reproduced in a note from P-ECS to the Remuneration Committee) had been endorsed by P-ECS and subsequently used by CorpCapital in determining the 2001 incentive payments.

I disagreed with him, stating that :

- our written comments on incentive scheme arrangements set out general principles which we recommended be taken into account in future (i.e. in the 2002 financial year);
- we were in no position to play any meaningful role with respect to determining 2001 incentive payments. Our only written comments in this regard were of a general nature, for example :

(i) pointing out that the inclusion of unrealised profits on non-traded assets, in investment turnover, was unconventional;

and

(ii) involvement of executive directors in setting target hurdle rates, created a conflict of interest.

- the hurdle rate formula had neither been recommended nor endorsed by P-ECS;
- while we were present at the Remuneration Committee meetings at which 2001 incentive payments had been discussed, we played no material role in this process.

We were unable to achieve consensus on these issues. I did, however, agree to discuss the points raised with Deon Thomson to confirm his recollection of events.

M J R WESTCOTT  
6<sup>th</sup> February, 2003

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***P-E Corporate Services SA (Pty) Limited***  
***Management Consultants***



**Annexure D**

10 February 2003

Mr Eric Ellering  
Chairman of the Board  
Corpcapital Limited  
2 Arnold Road  
ROSEBANK

Dear Eric

As you may be aware I was contacted recently by Benji Liebmann with a request to meet with him and discuss my letter to you, dated 24<sup>th</sup> January, 2003. We met on Wednesday, 5<sup>th</sup> February, 2003.

During our meeting he asked for clarification on what, if any, role we played in discussing and/or recommending a basis for determining the incentive payments made to Corpcapital executives in respect of the financial year ended 31<sup>st</sup> August, 2001.

He also made specific reference to a hurdle rate formula which he suggested was applied as a basis for computing these incentive payments. He queried whether we were involved in proposing or endorsing this formula.

He specifically requested that we clarify these issues in view of the fact that they are not referred to in my letter to you dated 24<sup>th</sup> January, 2003.

At the conclusion of the meeting I agreed to :

- confirm my record of our involvement with my colleague, Deon Thomson, who also worked on the project;
- record this in writing to you.

I set out the appropriate details below :

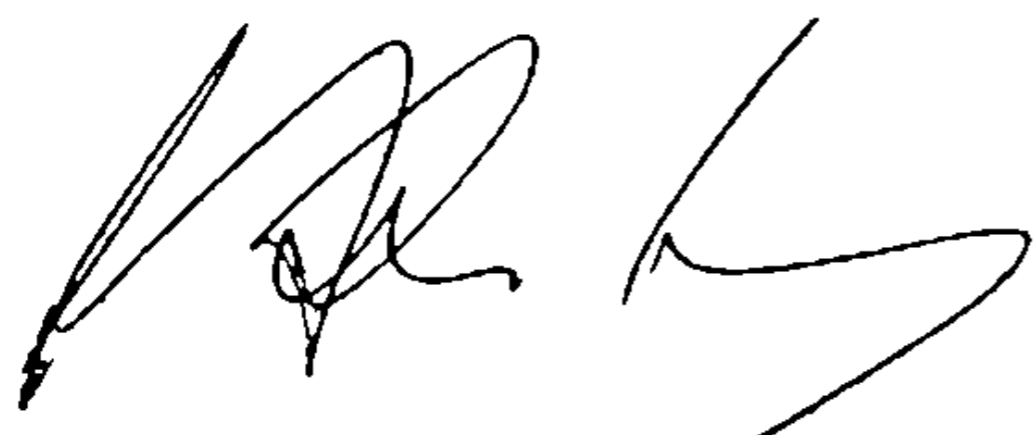
1. My letter dated 24<sup>th</sup> January, 2003 contains a concise summary of what we delivered in order to meet the terms of reference that we were commissioned to carry out for Corpcapital. These were confirmed in our first (briefing) meeting held with the Chairman of the Remuneration Committee on 9<sup>th</sup> November, 2001. The reason that no reference is made to any work on the 2001 incentive arrangements is that this did not form part of these terms of reference.
2. As part of our brief we were invited to attend the Remuneration Committee meetings held on 13<sup>th</sup> November and 16<sup>th</sup> November, 2001. Our role in these meetings was to contribute to the discussion, when so requested.
3. Following the meeting on 13<sup>th</sup> November we prepared a letter to the Chairman of the Remuneration Committee setting out our views on certain issues discussed at the meeting. Part of this letter dealt with the importance of establishing sound policies for determining incentive payments in future. Certain suggestions were made in this regard. We also prepared a list of points to assist the Committee in its deliberations on 16<sup>th</sup> November.
4. The hurdle rate formula referred to by Mr Liebmann, was neither tabled nor proposed by ourselves, as a basis for determining the 2001 incentives. However, our letters contain some critical comment on its possible application.
5. The quantum of incentive payments to executive directors in respect of the 2001 financial year was discussed and agreed at the Remuneration Committee on 16<sup>th</sup> November, 2001. Our role and contribution in this process was negligible.

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I trust that this provides the required detail. Please do not hesitate to contact me should you require any additional clarification.

Yours sincerely

A handwritten signature in black ink, consisting of stylized, cursive letters that appear to read 'M J R Westcott'.

M J R WESTCOTT  
Managing Director

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MINUTE OF A MEETING WITH BENJI LIEBMANN OF CORPCAPITAL  
TUESDAY, 11<sup>TH</sup> FEBRUARY, 2003

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I had a further meeting with Benji Liebmann, again at his request, to continue discussion on the issues raised by him at our previous meeting (Wednesday, 5<sup>th</sup> February, 2003). This particular meeting lasted just over two hours.

At the start of the meeting I confirmed that I had :

- held a discussion with Deon Thomson to confirm whether my previous interpretation of our involvement in the issues raised, was accurate;

and

- written to Board Chairman, Eric Ellerine, describing specifically the extent of our involvement in Remuneration Committee discussions and related advice on incentive policies and payments.

I also stated that, based on my discussion with Deon Thomson, I did not find it necessary to amend any of the content of my letters or previous discussion with him.

Mr Liebmann again questioned me extensively about our specific involvement in advising CorpCapital's remuneration Committee on incentive structures. In so doing he made reference to the letter and notes submitted by P-ECS to the Chairman of the Remuneration Committee after the November, 13<sup>th</sup>, 2001, meeting. He also made reference to the minutes of the Remuneration Committee meetings held on 13<sup>th</sup> and 16<sup>th</sup> November, 2001.

He stated that :

- in his opinion the fact that we undertook to write to the Remuneration Committee on the issues contained in our letter dated 15<sup>th</sup> November, 2001 automatically extended our terms of reference to deal with the issues raised in this letter. These included comment on incentive remuneration;
- our letter, verbal comments and discussions represented “extensive consultation” and this became a major influence in the Remuneration Committee decisions on incentive pay for 2001;
- this was also the view of the CorpCapital executives involved in the process;
- references in the Remuneration Committee minutes to P-ECS undertaking the task of benchmarking executive remuneration levels for CorpCapital executives referred to total remuneration and not exclusively guaranteed pay;
- the formula and values used for calculation of the 2001 executive incentives were drawn from a worked example in notes prepared by P-ECS, and that this was confirmed by the minutes of the Remuneration Committee meeting held on 16<sup>th</sup> November, 2001;
- our refusal to acknowledge this was a source of embarrassment to our client.

He requested that we write and apologise to CorpCapital for omitting this information from our letter to the Chairman, dated 24<sup>th</sup> January, 2003, and “set the record straight” by confirming the above. He also stated that failure to do so would reflect adversely on our professional ethics and could well result in public embarrassment for P-ECS when the results of the Commission of Enquiry were made public, and in any further resultant legal action.

In my response I pointed out that :

- my letter dated 24<sup>th</sup> January, 2003 accurately described the terms of reference that we were briefed to carry out by the Chairman of the Remuneration Committee. Formal consulting reports submitted to the Remuneration Committee were limited to the areas described in this letter;

- letters, lists of discussion points, reading materials, etc., were submitted to executive and non-executive directors dealing with other aspects of remuneration, and discussions held in these areas. This included incentive remuneration policy. I was quite willing to concede that these comprised advice rendered to CorpCapital. Advice provided in the area of incentive policy was, however, in response to questions raised by those present at the Remuneration Committee meeting. It did not form part of the mandate provided to us by the Committee Chairman during our briefing in advance of these meetings;
- we attended the Remuneration Committee meetings to provide input "on request" and not as full participants in the discussion. Our involvement was thus "low key". In particular, Deon Thomson's involvement in discussion at the November, 16<sup>th</sup> 2001 meeting was minimal. (I was unable to attend this meeting). This is substantiated by the fact that we did not receive any of the fairly extensive documentation provided to Remuneration Committee members (board packs, minutes, performance data, etc.) used to discuss and determine incentive payments;
- if the Remuneration Committee minutes implied that we would benchmark incentive pay (as part of total remuneration) for the November 2001 meetings, they were inaccurate. I had specifically agreed with Mr Frangos that market benchmarking would be confined to guaranteed pay. (This was in view of the time constraints; an incentive pay benchmarking report was prepared for the 2002 meetings).

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- Deon Thomson's specific recollection of discussions about, and determination of 2001 bonuses at the November, 16<sup>th</sup>, 2001, meeting differed from Mr Liebmann's account. Mr Thomson recalled that the Remuneration Committee had some difficulty in determining bonuses, in view of the fact that performance targets had not been submitted to the Committee at the start of the year under review. The possible use of the hurdle rate formula (which had been tabled by CorpCapital executives) was discussed. However, discussion about its use was inconclusive and Remuneration Committee members exercised their judgment in approving bonuses as equitably as possible. There was general agreement on the need to determine incentives on a more scientific basis in future.



After considerable debate I asked Mr Liebmann to state what his objective was in perpetuating this discussion. He stated that, in his view, our letter to the Chairman, dated 24<sup>th</sup> January, 2003, copied to Old Mutual Asset Managers, had been a source of great embarrassment to CorpCapital. More specifically, it had omitted to mention our role in determining the 2001 incentives, and had been written without our client, CorpCapital's sanction.

My response was that :

- the impression gained from a discussion with Richard Hasson of Old Mutual Asset Managers was that CorpCapital had greatly exaggerated the role P-ECS had played in determining the 2001 bonuses;
- the issue had become public knowledge and highly contentious;
- we had a right to correct the record;
- we had kept the Chairman of the Board fully informed.

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It became obvious that little further progress would be made by continuing the meeting. I agreed, in conclusion, to receive a letter from Mr Liebmann in which he would set out the statements he would like us to make. I undertook to review this.

M J R WESTCOTT  
12<sup>th</sup> February, 2003

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***P-E Corporate Services SA (Pty) Limited***  
***Management Consultants***



**Annexure F**

20 February 2003

Mr Eric Ellerine  
Chairman of the Board  
Corpcapital Limited  
2 Arnold Road  
ROSEBANK

Dear Eric

1. I met again with Benji Liebmann on 11<sup>th</sup> February, 2003 to further discuss the content of my previous letters to you .
2. I have also asked Deon Thomson to review the relevant correspondence and discussed the matter with him. In addition, I have had sight of certain sections of the Remuneration Committee minutes which relate to the issues discussed at the above meeting.
3. I have been requested by Corpcapital to prepare a letter setting out an account of our role as advisors to the company's Remuneration Committee but focusing specifically on advice given in the area of executive incentives. This letter is in response to this request.
4. When I received Old Mutual's request for clarification of our role as advisors to the Remuneration Committee I was not fully informed about the underlying reasons for their request. Consequently my verbal and written response (letter dated 24<sup>th</sup> January, 2003) was to describe the terms of reference that we had been briefed to carry out by the Chairman of the Remuneration Committee. These were agreed during our first meeting on 9<sup>th</sup> November, 2001 and during subsequent meetings. At the first meeting we were commissioned to prepare an initial report comparing guaranteed remuneration levels. The

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Chairman also discussed our involvement in various other aspects of remuneration at this time, including advising on incentive policy and the determination of incentive bonuses. We agreed that we would not be in a position to advise on the basis on which incentive bonuses should be paid in respect of the 2001 financial year or to do any market benchmarking in this regard, in view of the limited time available.

5. Deon Thomson and I attended the Corpcapital Remuneration Committee meeting on 13<sup>th</sup> November, 2001. We understand that the agenda for that meeting had been compiled by the Chairman with reference to issues raised, inter alia, at the meeting on 9<sup>th</sup> November. We also understand that the agenda included as items 4 and 9 respectively "Group Bonus Proposal" and "Bonus Structure Proposal (Addendum to the Remuneration Papers)".
6. During the meeting :
  - The Chairman recommended that P-E Corporate Services be appointed as external consultants to advise the committee on industry norms and benchmarking and make recommendations on guidelines. The committee accepted the recommendation and the appointment was approved.
  - The Remuneration Committee's discussions covered a wide range of remuneration issues, not limited to fixed or guaranteed remuneration.
  - P-E Corporate Services was requested by the Committee to provide recommendations on the subject of directors' involvement in co-investments and merger and acquisition opportunities.
  - The committee requested P-E Corporate Services to provide information as to market ranges/industry norms and to benchmark guaranteed remuneration for the purposes of the next Remuneration Committee meeting. In order to do so the executives on the Remuneration Committee undertook to provide P-E Corporate Services with job descriptions for this purpose.
  - P-E Corporate Services participated in the Remuneration Committee's discussions by invitation giving opinions only as and when requested. These opinions included, inter alia, the following subjects :
    - the role of incentives in remuneration policy and practice;

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- questions raised by the Committee on incentive policy, including various incentive formulae and hurdle rates.
  - P-E Corporate Services did not have physical possession of the Remuneration Committee's pack of documentation and therefore its comments were generalised.
  - The meeting was adjourned to 16<sup>th</sup> November, 2001.
7. On 14<sup>th</sup> November, immediately after the Remuneration Committee meeting, P-E Corporate Services wrote a letter to the Chairman of the Committee. The letter was headed "Issues Raised at the Meeting on 13<sup>th</sup> November, 2001", and confirms that we had undertaken, during the course of the discussion, to give the Committee our views on various questions raised. The letter then sets out our views in the sequence in which they were raised, according to our notes taken at the meeting. This was as follows :
- The benchmarking of senior executive pay levels.
  - The role of the share option scheme and of restraint consideration.
  - A concern regarding the high level of the short term incentives.
  - The fixing of the hurdle rate for the short term incentive scheme.
  - The draft rules for the 2002 scheme.
  
  - Whether co-investment by executive directors should be allowed.
  - Guidelines for non-executive directors' remuneration.
  - General recommendations.

Certain of the above topics were additional to the brief provided to us by the Remuneration Committee Chairman at our briefing meeting.

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Chairman of the Board  
Corpcapital Limited

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8. There is a difference of interpretation on the precise role that we played in advising the Committee with regard to executive incentives, during November, 2001. Formal, researched reports provided to the Committee at that time were limited to the benchmarking of guaranteed remuneration of executives, and non-executive directors' remuneration. However, the additional written opinion provided on incentive remuneration constituted advice to the Committee. It is fair to comment therefore that our mandate was extended by the Committee to include advice on general policy in the areas listed in 7, above. This included incentive remuneration.
9. Our letter of 14<sup>th</sup> November contains various comments on incentive remuneration. As noted above, these were made with reference to current market trends and policy, and good practice in this area of remuneration. The comments were made from the perspective that they should be built into incentive scheme arrangements in future.

Examples of such comments included:

- (i) a general observation that bonuses with high upside potential, as currently devised, could be retained as this is consistent with worldwide convention in the sector and would not render the remuneration package out of line.

The passage in the letter dealing with this reads as follows:

"Performance Bonus:

*The second component with the package - the profit share bonus could then be retained as currently devised - with high upside potential. Bonuses on this basis in this sector are a worldwide convention today, and the package would not be out of line on this account".*

- (ii) an opinion that the rules of the profit share scheme should defer bonuses based on unrealised profits on non-traded assets until the investment is realised. This was again a comment on general principle. In making our observations we were not commenting on any specific Corpcapital incentive scheme as we had no knowledge of these arrangements at that time.

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The specific passages from the letter which deal with this read as follows:

*"The question was also raised whether the sheer magnitude of the short term incentives in recent years would not tend to cause senior executives to develop a short term outlook - not in line with that of the shareholders. These are our views :*

3.1 .....

3.2 .....

3.3 *The particular problem which we believe should be guarded against is one which arises when the company takes an equity position within a new venture. If the short term incentive pays bonuses based on calculated equity value increases, there is then no incentive to negotiate and implement exit mechanisms - strategies which are the hallmark of merchant banking. We recommend therefore that the rules of*

*the profit share scheme should contain a rule which provides that the measure of super profits which represents unrealised profits on non-traded assets should be credited to the consultants concerned, but then carried forward until such time as that investment is realised".*

- (iii) comment on the potential conflict of interest which arises if executives fix a hurdle rate on which bonuses will subsequently be calculated. We opined that the approval of a hurdle rate should be the province of the board on the recommendations of the Remuneration Committee and that ideally this should be done at the commencement of each financial year. We were made aware of a hurdle rate formula that had been proposed to the Committee and our opinion included critical comment on aspects of this formula. These comments necessarily related to the future. In so far as the comments made reference to the hurdle rate formula, these also related to its possible future use.

10. Our letter of 14<sup>th</sup> November also contained a suggestion on how the Remuneration Committee might approach the problem of determining bonuses for the 2001 year. In the main this was that the principles

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recommended for 2002 be applied retrospectively, in so far as this was possible.

The relevant paragraph reads:

*“This can be done in relation to the 2001/2 scheme. The problem arises then how to handle this issue in relation to the past financial year. Our view is that your committee should in these circumstances critically review the hurdle rate which has been applied in formulating its recommendations to the board. The basis outlined in the next paragraph may assist in this exercise”.*

(The next paragraph is headed “The Draft Rules for the 2002 Scheme”).

11. In addition to our letter we provided background reading on incentive scheme theory to Remuneration Committee members, and examples of variables (such as return on equity, risk premiums, beta readings, etc.) typically used in different incentive formulae. Deon Thomson also met with Jeff Liebesman in this regard.
12. On 15<sup>th</sup> November, 2001 P-E Corporate Services submitted a formal report to the Chairman of the Remuneration Committee. This report addressed market related guaranteed remuneration benchmarks (i.e. basic salary, cash and non-cash fringe benefits). The report makes reference to the fact that comment and recommendations on incentive remuneration has been made in a separate document.
13. Deon Thomson attended the Remuneration Committee on 16<sup>th</sup> November, 2001. He submitted to the meeting a document entitled “Summary of points to make to Remuneration Committee on 16<sup>th</sup> November, 2001.” The document comprised a list of points for discussion at the meeting, including the following topics :
  - (i) the need for balance between the different components of the pay package; and suggesting guaranteed pay at median market rates and retention of profit sharing and share option policies with some modification;
  - (ii) with respect to the Committee’s deliberations on the 2000/01

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bonuses - the facts that :

- (a) exclusion of unrealised profits in incentive investment turnover was conventional in merchant banking;
- (b) agreement with a statement made by the Chairman that a conflict of interest arises if executive directors settle hurdle rates; and
- (c) the hurdle rate formula proposed to the Committee appeared to be set too low.

(iii) with respect to the 2001/02 bonus scheme design - suggestions that :

- (a) the hurdle rate to be formulated for this year, be divisionalised;
- (b) the unrealised profit issue be addressed;
- and
- (c) sliding scale sharing percentages be given consideration.

The document also included discussion points on the co-investment issue and non-executive directors' remuneration.

Attached to the document was a sample calculation of variables for use in a hurdle rate formula such as that being considered by the Remuneration Committee. Typical figures were provided for both "a share of average risk" and "a risky share".

14. P-E Corporate Services' report on the benchmarking of guaranteed pay of Corpcapital executives and the document referred to in 13, above, were tabled for discussion at the meeting on 16<sup>th</sup> November, 2001. Discussion at the meeting covered a wide range of remuneration-related topics, including the review of executive packages and the 2000/01 bonuses.



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With reference to the hurdle rate approved by the Committee for 2001 bonuses, we understand that the minutes of the meeting state that this was approved "subsequent to deliberation and on the advice of P-E Corporate Services". Deon does not concur with this minute and we believe that it exaggerates our role. Deon Thomson's role at the meeting was to answer questions and express an opinion when so requested.

The above hurdle rate formula was neither developed nor tabled by P-E Corporate Services and our only contribution at the meeting was to point out that the proposed formula was being applied

incorrectly. There was some confusion about its correct use at the meeting. We were in fact requested to meet with the Chief Executive subsequent to the meeting to discuss how it should be used in the 2001/02 financial year.

I trust that this summary will prove helpful in addressing any points which remain unclear.

Yours sincerely



M J R WESTCOTT  
Managing Director

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Mr Eric Ellerine  
Chairman of the Board  
Corpcapital Limited

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