

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY**

**IN THE ABUJA JUDICIAL DIVISION**

**HOLDEN AT MAITAMA**

**BEFORE HIS LORDSHIP:HON. JUSTICE Y. HALILU**

**COURT CLERKS : JANET O. ODAH & ORS**

**COURT NUMBER : HIGH COURT NO. 13**

**CASE NUMBER : CHARGE NO: CR/039/2021**

**DATE: : WEDNESDAY 16<sup>TH</sup> JULY, 2025**

**BETWEEN**

**FEDERAL REPUBLIC OF NIGERIA ... COMPLAINANT**

**AND**

**1. BENJAMIN EZRA DIKKI  
2. KEBNA STUDIO & COMM. LTD. } DEFENDANTS**

# **RULING**

This Ruling is at the instance of the 1<sup>st</sup> and 2<sup>nd</sup> Defendant's counsels applications on who both chose to file a Defence of No Case to Answer upon close of prosecution case against all the 1<sup>st</sup> and 2<sup>nd</sup> Defendants.

The 1<sup>st</sup> and 2<sup>nd</sup> Defendants in this case were arraigned on the 6<sup>th</sup> day of February, 2021 on a (4) Count charge as follows:-

## **COUNT 1**

That you, Benjamin Ezra Dikki, while being the Director General of Bureau of Public Enterprise and also the Managing of Kebna Studios & Communication Limited, and Kebna Studios & Communication Limited, on or about the 30<sup>th</sup> day of January, 2015, in Abuja, within the jurisdiction of this Honourable Court, did corruptly accepts as reward the sum of **N250,000.000.00 (Two Hundred and Fifty Million)** Naira only through Kebna Studios & Communication Limited's Sky Bank Account No. 1771649525 from Bestworth Insurance Brokers Limited for your role in facilitating the approval of **N27,188,232,208.20** being funds earmarked for the payment of outstanding insurance premiums and claims of deceased and incapacitated staff of

Power Holding Company of Nigeria (PHCN), and thereby committed an offence contrary to Section 17(1) (a) of the Corrupt Practices and Other Related Offences Act, 2000 and punishable under Section 17 (1) (c) of the same Act.

## **COUNT 2**

That you, Benjamin Ezra Dikki, while being the Director General of Bureau of Public Enterprise and also the Managing of Kebna Studios & Communication Limited, and Kebna Studios & Communication Limited, on or about the 2<sup>nd</sup> day of January, 2015, in Abuja, within the jurisdiction of this Honourable Court, did corruptly accepts as reward the sum of **N300,000.000.00 (Three Hundred Million Naira)** only through Kebna Studios & Communication Limited's Sky Bank Account No. 1771649525 from Bestworth Insurance Brokers Limited for your role in facilitating the approval of **N27,188,232,208.20** being funds earmarked for the payment of outstanding insurance premiums and claims of deceased and incapacitated staff of Power Holding Company of Nigeria (PHCN), and thereby committed an offence contrary to Section 17(1) (a) of the Corrupt Practices and Other Related Offences Act, 2000 and punishable under Section 17 (1) (c) of the same Act.

### **COUNT 3**

That you, Benjamin Ezra Dikki, while being the Director General of Bureau of Public Enterprise and also the Managing of Kebna Studios & Communication Limited, and Kebna Studios & Communication Limited, on or about the 6<sup>th</sup> day of February, 2015, in Abuja, within the jurisdiction of this Honourable Court, did corruptly accepts as reward the sum of **N400,000.000.00 (Four Hundred Million Naira)** only through Kebna Studios & Communication Limited's Sky Bank Account No. 1771649525 from Bestworth Insurance Brokers Limited for your role in facilitating the approval of **N27,188,232,208.20** being funds earmarked for the payment of outstanding Insurance Premiums and claims of Deceased and Incapacitated Staff of Power Holding Company of Nigeria (PHCN), and thereby committed an offence contrary to Section 17(1) (a) of the Corrupt Practices and Other Related Offences Act, 2000 and punishable under Section 17 (1) (c) of the same Act.

### **COUNT 4**

That you, Benjamin Ezra Dikki, while being the Director General of Bureau of Public Enterprise and also the Managing Director of Kebna Studios & Communication Limited, and Kebna Studios &

Communication Limited, on or about the 16<sup>th</sup> day of February, 2015, in Abuja, within the jurisdiction of this Honourable Court, did corruptly accepts as reward the sum of **N50,000.000.00 (Fifty Million Naira)** only through Kebna Studios & Communication Limited's Sky Bank Account No. 1771649525 from Bestworth Insurance Brokers Limited for your role in facilitating the approval of **N27,188,232,208.20** being funds earmarked for the payment of outstanding Insurance Premiums and claims of Deceased and Incapacitated Staff of Power Holding Company of Nigeria (PHCN), and thereby committed an offence contrary to Section 17(1) (a) of the Corrupt Practices and Other Related Offences Act, 2000 and punishable under Section 17 (1) (c) of the same Act.

1<sup>st</sup> and 2<sup>nd</sup> Defendants pleaded not guilty and trial commenced on the 14<sup>th</sup> July, 2021. The Prosecution called five (5) witnesses, and they both gave evidence as PW1, PW2, PW3, PW4 to PW5. follows;

PW1 (Abdulganiyu Ayilara) stated that he is a staff of Polaris Bank and also a Compliance Officer. His main schedule of duty is to interface with law enforcement agencies like EFCC, ICPC, Police, NFIU and any other function assigned to him by the Bank.

PW1 stated that he has not met the 1<sup>st</sup> Defendant but he knows they have 2<sup>nd</sup> Defendant's account with them.

He testified that EFCC wrote requesting the Bank to provide account opening documents and statement of account in respect of one of their customers i.e Bestworth Insurance Brokers which they did with a forwarding letter headed paper of Skye Bank. The statement of account was generated from the Computer system of the Bank which was re-confirmed to ascertain the correctness of same. The statement of account was printed-out and he checked the computer to compare same.

The Document was forwarded to EFCC using the bank's letter head as covering letter.

PW1 stated further that on the 9<sup>th</sup> day of October, 2020, EFCC requested for certificate of identification. EFCC also wrote another letter requesting for some documents with respect to the 2<sup>nd</sup> Defendant. The documents were the account opening mandate, statement of account of the 2<sup>nd</sup> Defendant, BVN attached to the account and also certificate of identification on the account and were all delivered to EFCC. That they compared the documents to the one in the system to ensure it is the same.

He stated that, that of 2<sup>nd</sup> Defendant has more than one account with them. That they printed all the statements inclusive of domiciliary account and forwarded to EFCC. The account statement and the account mandate are attached to Skye Bank Letter Head.

PW1 further testified that he can identify the Documents with respect to 2<sup>nd</sup> Defendant by the account mandate statement, BVN and the certificate issued are attached to the letter by Polaris Bank which him and his colleague signed. The same with account No. 2 of the 2<sup>nd</sup> Defendant which also has certificate of identification.

PW1 seen the documents and confirmed that they are the Documents in question.

PW1 further gave evidence that Exhibit A, B and C particularly Exhibit "B", is a credit inflow i.e transfer from CBN with the narration RTGS Transfer by Order of PACN Staff Severance Benefit. The amount is **N26,236,594,986 Billion** which was the initial deposit in the account, while Exhibit "A" was a credit inflow of **N250,000,000.00 (Two Hundred and Fifty Million Naira)** into the 2<sup>nd</sup> Defendant's account with the narration Funds

Transfer in favour of 2<sup>nd</sup> Defendant by Order of Bestworth Insurance Brokers.

PW1 testified that there was another inflow of **N300,000.00 (Three Hundred Thousand Naira)** with the same narration of Funds Transfer in favour of the 2<sup>nd</sup> Defendant by Order of Bestworth Insurance Brokers.

That there was another credit inflow of **N400,000,000.00 (Four Hundred Million Naira)** with the Narration Fund Transfer by Order of Bestworth Insurance Brokers in favour of the 2<sup>nd</sup> Defendant.

It is credit inflow of **N50,000,000.00 (Fifty Million Naira)** with the narration Funds transfer by Order of Bestworth Insurance Brokers in favour of the 2<sup>nd</sup> Defendant.

PW1 gave evidence that the total of monies that came into this account maintained by the 2<sup>nd</sup> Defendant is **N1,000,000,000.00 (One Billion Naira)** and all came from the same source i.e transfer from Bestworth Insurance Brokers.

That on the 23<sup>rd</sup> day of February, 2015 there is a debit transaction of **N97,500,000.00 (Ninety Seven Million Five Hundred Thousand Naira)** by the Order of the 2<sup>nd</sup> Defendant.

And on the 9<sup>th</sup> day of March, 2015, 2<sup>nd</sup> Defendant gave instruction for the sum of **N800,000.00 (Eight Hundred Thousand Naira)** to be fixed in the Bank.

PW1 stated further in his testimony that, the signatories to this account are Benjamin Dikki and Cecilia Dikki, the instruction is that any of them can sign.

That on the 7<sup>th</sup> day of December, 2015, the fix deposit earlier booked for **N800,000,000.00 (Eight Hundred Million Naira)** was collapsed into the account in Exhibit 'C' with the interest. There were a lot of transactions on that 7<sup>th</sup> December, 2015. 80 Banks drafts were issued in favour of SilaNeke Integrated Global Services Limited totaling **N800,000,000.00 (Eight Hundred Million Naira)**.

PW1 tendered the following and admitted in evidence;

1. Letter dated 24<sup>th</sup> November, 2020 on the letter headed paper of Polaris Bank addressed to EFCC Chairman.
2. Letter dated 23<sup>rd</sup> August, 2016 on letter headed paper of Sky Bank addressed to EFCC Chairman.
3. All attachments and Certificate of Identification dated 12<sup>th</sup> July, 2021 with Account Statements.

PW1 was cross-examined and accordingly discharged.

Examination in-chief of PW2 (Oyeleke Rasheed) affirm.

He stated in his evidence that he live at Bwari in Abuja. He is a Staff of Fidelity Bank Plc. and that he work in compliance division of the bank. His job responsibility includes filing of currency transactions report with CBN both in Naira and Foreign currencies, filing of suspicious transaction with NFIU, attending to requests of investigation agencies whenever they request for account opening package of customer etcetera.

PW2 gave evidence that January, 2017, EFCC wrote a letter to Fidelity Bank Plc. requesting for statement of account of Brains and Hammers, account opening package and the mandate. Upon receipt of the letter, they granted the request by drafting a letter and attaching all the documents requested which they sent to the commission. At a later date, EFCC then requested for Certificate of Identification which they obliged. As at the time the statement of account was printed from the computer, same was working very well and they compared the printed documents and there was no error.

That he can identify the documents by his signature on the document and an authorized signatory.

PW1 further gave evidence that on 23<sup>rd</sup> day of February, 2015, the sum of **N97.5Million** came into the account of Brains and Hammers Limited from One Kebna Studio & Communications Limited.

PW2 tendered the following documents and admitted in evidence;

1. Statement of account, account opening package of Certificate of Compliance of Brains and Hammers marked Exhibit 'D'.

PW2 was cross-examined and accordingly discharged.

Examination in-Chief of PW3 (Darusa Ndi Dorris) affirm.

PW3 gave evidence that she is a Staff of Union Bank of Nigeria. She a retail relationship manager, manage retail accounts as account officer, she also advice customers and also interpret their statements of accounts and any other banking duties.

PW3 stated in her evidence that on the 12<sup>th</sup> July, 2021, they received a letter from EFCC to produce some documents of Sila-Neke Global Integrated Services i.e Mandate card, Statement of Account from 1<sup>st</sup> January, 2015 till date and Certificate of Identification. That on the 13<sup>th</sup> July, 2021, they provided the said documents and that she can identify this letter on the Letter headed paper of EFCC.

Pw3 further stated that Dikki Cecilia Benjamin Keme is the signatory on the mandate card.

It is the evidence of PW3 that on 10<sup>th</sup> December, 2015 there was a cash deposit of **N25,000.00** and Skye Bank Managers cheque also called Bank draft (36 in number) each for **N10Million**.

And that from 10<sup>th</sup> day of December, 2015 to 22<sup>nd</sup> December, 2015 additional Skye Bank Managers Cheques of **N10Million** each totaling **N800Million**.

PW3 tendered the following Documents and admitted in evidence;

1. Letter on the Letter headed paper of Union Bank dated the 13<sup>th</sup> July, 2021 with document attached marked Exhibit 'E'.

PW3 was cross-examined and accordingly discharged.

Examination in - Chief of PW4 (Alex Okoh) sworn on Bible)

PW4 gave evidence that he lives at No. 11 Osun Crescent, Maitama, Abuja, and that he is the D.G Bureau for Public Enterprise. He confirmed knowing the 1<sup>st</sup> and 2<sup>nd</sup> Defendants

PW4 gave evidence with regard to a matter concerning the payment of **N27,100,000,000.00 (Twenty Seven Billion, One Hundred Million Naira)** for the purpose of previous

payment for the Group Life and Personal Accident Insurance for the former staff of the Default (PHCN) following the Privatization of PHCN.

PW4 further gave evidence that his duties as the D.G of BPE as both member and secretary of the National Council on Privatization is the officer who present memorandum and request to the council for consideration and approval.

It is the evidence of PW4 that he took over in April 2017 as D.G BPE and from the records available to him, he found out that a memo was presented to the National Council on Privatization by the Director General of BPE requesting council's approval for the payment of the sum of **N27,100,000,000.00 (Twenty Seven Billion, One Hundred Million Naira)** as revenue for the Group Life and Personal Accident Insurance for the Staff of the default PHCN. PW4 stated in his evidence that Mr. Benjamin Ezra Dikki (The then D.G BPE) was the one who presented the Memo, and it was approved by the Council.

He testified further that subsequent to council's approval and from the record available to him, a memo was forwarded by the then Vice President who was Chairman of the Council on the 18<sup>th</sup> August, 2014, on the 25<sup>th</sup> April, 2014, Mr. President upon receipt

conveyed approval to the vice president. On the 26<sup>th</sup> November, 2014, the office of the Vice President advised the D.G of BPE of Mr. President's approval on the 2<sup>nd</sup> December, 2014, the then D.G BPE issued a transfer instruction to two Banks, (Zenith Bank Plc.) for the transfer of **N10,000,000,000.00 (Ten Billion Naira)** and Access Bank for the transfer of **N17,100,000,000.00 (Seventeen Billion, One Hundred Million Naira)** on the same date totaling **N27,100,000,000.00 (Twenty Seven Billion, One Hundred Million Naira)**.

That he can identify the two instructions for transfer from the signature of the former D.G and the acknowledgment from the bank.

Pw4 further states that Mr. Ezra B. Dikki was the D.G. during the sale of PHCN.

Pw4 tendered the following documents and admitted in evidence;

1. Zenith Bank PHCN proceeds A/C NGN Voucher dated 2<sup>nd</sup> December, 2014 marked Exhibit "G".
2. Access Bank PHCN proceeds Account Voucher dated the 2<sup>nd</sup> December, 2014 marked as Exhibit "H".

PW4 was cross-examined by the learned counsel of the 1<sup>st</sup> Defendant and the following documents were tendered and admitted.

1. Memo dated the 3<sup>rd</sup> July, 2014 tendered is admitted in evidence and marked Exhibit "I".
2. Minutes of meeting of the National Council on Privatization held on the 4<sup>th</sup> August, 2014 marked Exhibit "J".
3. Document dated the 28<sup>th</sup> November, 2014 marked Exhibit "K".
4. Document dated the 26<sup>th</sup> November, 2014 addressed to the D.G BPE, marked Exhibit "L".

Examination in-chief of PW5 (Odojin Adekunle C.) affirm.

Pw5 stated in his evidence that he is a Public Servant working with EFCC as Detective, EFCC Headquarters Jabi, Abuja. His schedule is to investigate all cases assigned to his team, write reports on same, forward same to the Legal Department for legal advice and public prosecution, come to court and give evidence. He confirmed knowing the 1<sup>st</sup> and 2<sup>nd</sup> Defendants.

PW5 gave evidence that on the 2<sup>nd</sup> August, 2016, the EFCC received a Covert Human Intelligence alleging the diversion of the sum of **N27,188,232,208.20k** meant for payment for Group Life Insurance Limited and Group Accident Insurance of the Staff of the default PHCN. The Intelligence further alleged that the said sum was part of the price realized from the sale of PHCN.

The intelligence further alleged that the approval for this payment was given by the Former President, Jonathan based on the recommendation of the Vice President Sambo who was the Chairman of the National Council on Privatization. In a swift reaction to this intelligence, the Commission wrote letter of investigation activities to PBE to furnish the EFCC with details of recommendation approval and the disbursement of the sum. BPE responded by furnishing the commission documents as follows:-

1. Mandate schedule for the Payment of the sum of **N27,188,232,208.20k** as Group Life and Group Accident Insurance payment for the staff of the Default PHCN.
2. Minutes of decision on 3<sup>rd</sup> 2014 meeting of National Council on Privatization held on the 4<sup>th</sup> August, 2014.
3. Instructions to Access Bank Plc. instructing the Bank to transfer the sum of **N17,188,232,208.20k** Central Bank of

Nigeria Account of PHCN the account name is Severance Benefits Account.

4. An Instruction from BPE instructing Zenith Bank Plc. to transfer the sum of **N10,000,000,000 (Ten Billion Naira)** to the Central Bank of Nigeria account of PHCN aforementioned.
5. Letter from PBE informing the Accountant General of the Federation of the transfer of the total sum of **N27,188,232,208.20k** to the Central Bank of Nigeria account of PHCN mention above based on the recommendation of National Council on Privatization.

That these documents were received and analyzed in the course of investigating this case, letters of investigation activities were also written to CAC in respect of the second Defendant and Kumu Gomo Nig. Ltd. and a company called Sila Nake Integrated Global Services Limited. Responses were received and analyzed.

PW5 further gave evidence that they also wrote letter of investigation activities to Polaris Bank Plc., Fidelity Bank Plc. and Union Bank Plc. to furnish the Commission details of account of the 2<sup>nd</sup> Defendant, Brains and Hammers Limited and SilaNake Integrated Limited. Responses were analyzed, pursuant to this

investigation, the 1<sup>st</sup> Defendant was invited to the Commission and he reported on the 1<sup>st</sup> September, 2016 where he made two statements under the words of caution. Cautionary words were administered by his colleague Madaki Yakubu in his presence, same was read to him, he understood same and he volunteered his statement in the presence of his Counsel. 1<sup>st</sup> Defendant made additional eleven (11) statements to the Commission between 2<sup>nd</sup> September, 2016 to 17<sup>th</sup> December, 2020 totaling 13 statements.

Pw5 stated that the outcome of their Investigation revealed amongst other things that the 1<sup>st</sup> Defendant is a Director in the 2<sup>nd</sup> Defendant. That 1<sup>st</sup> Defendant is also a signatory to the account of 2<sup>nd</sup> Defendant domiciled in Polaris Bank Plc. That they also found out that from investigation, 1<sup>st</sup> Defendant was not only a serving D.G of P.B.E during the period under review, 1<sup>st</sup> Defendant also doubles as a member and secretary of National Council on Privatization. That they discovered from investigation that based on the resolution of the Council on privatization for the release of the total sum of **N27,188,232,208.20k**, the request was approved by the then President based on the recommendation of the Council for the purpose of payment of Severance Package for the late and Incapacitated Staff of the

Default PHCN. Approval of this sum was made to be released to Great Nigeria Insurance Plc. (GNI).

At the time of this approval, the policy of No premium, No cover was in place which automatically disqualified GNI, because as at that time No premium was advanced to GNI by PHCN which made it impossible for GNI Ltd. to take-up the policy. As a result of this development, investigation further revealed the Great Nigeria Insurance Plc. recommended an Insurance Broker called **Best Worth Insurance Brokers Limited** take up the policy. This position was further corroborated by a letter recovered in the course of this investigation from Best Worth Insurance Brokers Limited dated 15<sup>th</sup> December, 2014. The letter emanated from the office of the Accountant General of the Federation addressed to Best Worth Insurance Brokers. Based on this development, investigation further revealed that the sum of **N27,188,232,208.20k** less task was released to the Polaris Bank Account of Best Worth Insurance Brokers Account on the 10<sup>th</sup> December, 2014. Upon receipt of the money, on the 30<sup>th</sup> January, 2015, the sum **of N250,000,000.00 (Two Hundred and Fifty Million Naira)** was transferred from Best Worth Account to that of 2<sup>nd</sup> Defendant in the same Polaris Bank.

On the 2<sup>nd</sup> February, 2015, the sum of **N300, 000,000.00 (Three Hundred Million Naira)** was equally transferred from Polaris Bank account of Best Worth Insurance Brokers Account to the 2<sup>nd</sup> Defendant Polaris Bank Account. On the 6<sup>th</sup> February, 2015, additional **N400,000,000.00 (Four Hundred Million Naira)** was transferred from Best Worth Insurance Account in Polaris Bank to the 2<sup>nd</sup> Defendant's account in Polaris Bank account.

On the 16<sup>th</sup> February, 2015, there was transfer also of **N50,000,000.00 (Fifty Million Naira)** from Best Worth Insurance Account to that of 2<sup>nd</sup> Defendant's account in Polaris Bank Plc. the total sum transferred from Best Worth Insurance Brokers Limited Polaris Account to the 2<sup>nd</sup> Defendant's Bank account was **N1,000,000,000.00 (One Billion Naira)**

Upon receipt of the **N1,000,000,000.00 (One Billion Naira)** by the 2<sup>nd</sup> Defendant, the sum of **N97.5 Million** was transferred to Fidelity Bank account of Brains and Hammers for the purpose of acquiring property. Brains and Hammers is a property development company.

The sum was transferred on the 23<sup>rd</sup> February, 2015. Furthermore, the sum of **N800,000,000.00 (Eight Hundred**

**Million Naira)** was transferred to a fixed deposit account domiciled in Polaris Bank. Investigation also revealed that upon maturity of the fixed sum of **N800,000,000.00**, further instruction was given by the 2<sup>nd</sup> Defendant to Polaris Bank Plc. for the movement of said sum to the Union Bank Account of a Company earlier mentioned i.e **Sila Nike Integrated Global Services Limited**. Based on the instruction, 2<sup>nd</sup> Defendant on the 7<sup>th</sup> December, 2015, raised bank draft i.e manager's cheques of **N10,000,000.00 (Ten Million Naira)** each in 79 places and also on the 8<sup>th</sup> December, 2015, 2<sup>nd</sup> Defendant realized a bank draft of **N10,000,000.00 (Ten Million Naira)** making a total of 80 banks drafts totaling **N800,000,000.00 (Eight Hundred Million Naira)**.

These Bank drafts were lodged into the Union Bank Plc. Account of Sila Nike Integrated Global Services Limited domiciled in Union Bank as follows:-

On the 10<sup>th</sup> December, 2015, 36 bank drafts of **N10,000,000.00 (Ten Million Naira)** each were lodged into the said account.

On the 17<sup>th</sup> December, 2015, 16 bank draft were also lodged into the same account.

On the 18<sup>th</sup> December, 2015, 24 bank drafts of **N10,000,000.00 (Ten Million Naira)** were also lodge into the said account.

On the 22<sup>nd</sup> December, 2015, 4 bank drafts of **N10,000,000.00 (Ten Million Naira)** were also lodged in the said Union Bank Account totaling 80 Bank drafts of **N10,000,000.00 (Ten Million Naira)** each. The question then is who is Sila Nake Integrated Global Services Limited?... the said company is a private company where Kebna Associates represented by the wife of the 1<sup>st</sup>Defendant by name Cecilia Benjamin Dikki is the sole signatory to the company account mentioned above in Union Bank Plc. The 1<sup>st</sup> Defendant who did not dispute at any time in the course of investigation that he benefitted the sum of **N1,000,000,000.00 (One Billion Naira)** out of the **N27,188,232,208.20k**, was claiming that the said sum is a compensation made to him because of the role he played in introducing Best Worth Insurance Brokers Limited to Great Nigeria Insurance Co. Ltd. for the execution of this contract.

Further, the 1<sup>st</sup> Defendant made a refund of **N175,000,000.00 (One Hundred and Seventy Five Million Naira)** in draft to the Commission. 1<sup>st</sup> Defendant also refunded the sum of **N345,000,000.00** by way of property. The three properties

were valued at **N345,000,000.00 (Three Hundred and Forty Five Million Naira) totaling N520,000,000.00 (Five Hundred and Twenty Million Naira)** so far refunded by the 1<sup>st</sup> Defendant leaving a balance of **N480,000,000.00 (Four Hundred and Eighty Million Naira).**

PW5 in his evidence further states that he can recognize the CAC responses in their letter headed paper.

That Exhibit "N" is a CAC response letter to the Commission's letter, and the Directors of the Company are Silaboro Roko, Ezra Dudu, Elizabeth Konye Dude, Hanatu Adaka Gidu; Keme Joseph Kuba and Kebna Associates Ltd. represented by Cecilia Benjamin Dikki. Exhibit "M" is also a CAC response Letter to EFCC.

It is further the evidence of Pw5 that based on the recommendation of the National Council on Privatization, the Council recommended the sum of **N27.1 Billion** to be paid as compensation of the incapacitated and dead staff of the Default PHCN Staff. Based on the Council's recommendation, the former President (Jonathan) approved the sum of **N27.1Billion** as recommended. Based on this approval and after taxes deduction on the 10<sup>th</sup> December, 2014, the sum of **N26,236,594,986** was

paid to the account of Bestworth Insurance Brokers Limited domiciled in the default Skye Bank (now Polaris Bank).

That Exhibit O is a response of CAC response letter to EFCC in respect to the 2<sup>nd</sup> Defendant. The Directors are three i.e the 1<sup>st</sup> Defendant (Dikki Benjamin); Dikki Cecilia (wife of 1<sup>st</sup> Defendant) and Dikki Kobo (son to the 1<sup>st</sup> Defendant).

That 1<sup>st</sup> Defendant (Benjamin Dikki) and Cecilia Dikki (1<sup>st</sup> Defendant's wife) are the signatories to the Kebna Studio.

There was inflow of **N250Million** from Bestworth Insurance Limited. This sum was received from the inflow of **N26.3Billion** earlier mentioned that was transferred to Bestworth Insurance, and on the 2<sup>nd</sup> February, 2015, the same account witnessed inflow from the same source Bestworth Insurance Brokers Limited of the sum of N300 Million which was from the same monies earlier mentioned.

That 6<sup>th</sup> February, 2015, the said account witnessed inflow of **N400,000,000.00 (Four Hundred Million Naira)** from the same source i.e Best worth Insurance. Also on the 16<sup>th</sup> February, 2015 the same account witnessed inflow of **N50,000,000.00 (Fifty Million Naira)** from the Polaris Bank Account of Best worth Insurance Limited. This brings the total sum paid into this

account to a total of **N1,000,000,000.00 (One Billion Naira)**. The said **N1,000,000,000.00 (One Billion Naira)** was received from the same money earlier mentioned.

PW5 further gave evidence that in the course of investigation, and due to the fact that the 1<sup>st</sup> Defendant was a sit in Director General (DG) of BPE who also doubles as the Secretary of the National Council on Privatization, and having traced this amount to the Bank account where the 1<sup>st</sup> Defendant is a signatory, 1<sup>st</sup> Defendant was asked this question in the course of investigation i.e "why was this money paid to you? It's response was that it was a Commission as a result of his effort of recommending Best worth Insurance Brokers Limited to GNI Plc. (Great Nigerian Insurance Plc.)."

That upon receipt of the sum of **N1,000,000,000.00 (One Billion Naira)** into the Account of the 2<sup>nd</sup> Defendant, the sum of **N97.5Million** was transferred to a property company i.e Brains and Hammers on the 23<sup>rd</sup> February, 2015 for the purpose of purchasing landed property.

On the 9<sup>th</sup> March, 2015, the sum of **N800,000,000.00 (Eight Hundred Million Naira)** was fixed in the same Polaris Bank. Upon the maturity of this **N800,000,000.00 (Eight Hundred**

**Million Naira**), instruction was given by the 2<sup>nd</sup> Defendant through the 1<sup>st</sup> Defendant to transfer the sum of **N800,000,000.00 (Eight Hundred Million Naira)** to be made in drafts in favour of a company.

In compliance with the instruction, drafts of **N10,000,000.00 (Ten Million Naira)** each were raised and lodged in the account Serilaka Integrated Company where the wife of the 1<sup>st</sup> Defendant is the sole signatory to the account.

PW5 tendered the following documents and admitted in evidence;

Corporate Affairs Commission (CAC) letters dated 19<sup>th</sup> July, 2021, 28<sup>th</sup> October, 2020 and 14<sup>th</sup> April, 2021 all addressed to the Executive Chairman, EFCC marked Exhibits "M", "N" "O" and 1<sup>st</sup> Defendant Statement dated 1<sup>st</sup> September, 2016 marked as Exhibit "P".

PW5 was cross-examined and subsequently discharged.

1<sup>st</sup> and 2<sup>nd</sup> Defendants' Counsels filed a Defence of No Case to Answer and served same on the Prosecution.

In line with the law and procedure, learned counsel for the 1<sup>st</sup> Defendant filed written address wherein sole issue was formulated for determination to-wit;

**Whether by the totality of evidence presented by the Prosecution in support of the charge, a prima facie case has been sufficiently made out requiring the Defendant to enter a Defence.**

Arguing on the above issue, learned counsel submits that it is trite that actus non facit reum nisi mensit rea. No act constitutes an offence until it is accompanied with blame worthy mind. The elements of this offence are that any act complained of must be shown to have been done corruptly. He cited the case of ***FRN VS. ADEMOLA (2021) LPELR-52831(CA)***.

Learned counsel argued from the authorities cited above, if the Court takes a look at the documents submitted, the Court will find that nothing was brought to show that the 1<sup>st</sup> Defendant "corruptly accepts" obtains or agrees to accept or obtain or attempts to obtain from anybody for himself" As a matter of fact, from the cross examination of the Prosecution witnesses, none of these elements of the offence in section 17(1)(a) of the Corrupt Practices and Other Related Offences Act, 2000 was proven at all.

Learned counsel argued that under cross - examination PW1 who is a compliance officer at Polaris Bank and who was brought before this Court by the Prosecution demonstrate the

circumstances surrounding the sums mentioned in the Exhibit tendered through him only fumbled the bag and stated that he does not know the circumstances in which the inflow was made came into the account in Exhibit "B" He also testified that he does not know who signed the outflow and the circumstances as nobody informed him and that he had not met the customer. He also testified that the person that prepared the account is Abdussalam A. Ayilara not him and it was Adamu Amodu that prepared statement of account Exhibit "A" not the PW1. He also testifies that he does not know who signed the instruments in Exhibit "B".

Learned counsel contends therefore that from the testimony of PW1, it is glaring that PW1 was only brought to the Court to dump Exhibits "A", "B" and "C" which he does not only know nothing about, but that he is not even the maker of. The PW1 did not disclose whether the inflow in Exhibit "B" was remitted because the 1<sup>st</sup> Defendant "corruptly asked or obtain from anybody for himself. It is the learned counsel's submission that the testimony of PW2 is just but a narration that lacks utility value and is immaterial to the fact in this suit. The testimony does not support the case of the Prosecution in anyway and thus should be discountenanced. The Court is enjoined to ignore evidence

submitted before which has no utility and irrelevant to the case such as Exhibits A, B and C adduced by Pw1 in this matter. The case of ***AJAO & ORS VS. ALAO & ORS (1986) LPELR-285(SC)***.

Learned counsel contends that it is a mandatory requirement that the Prosecution presents a prima facie case before the Defence is required to answer what is a prima facie case in relation to an application for a No Case Submission. He cited the case of ***ADUKE VS. FRN (2009) & NCC 150***.

Learned counsel submits that none of the elements of the offence have been proven at all. No evidence was presented to show that there was a payment of the sum of **N27,188,232,208.20k** on the instruction, or with the aid of the 1<sup>st</sup> Defendant to Bestworth. There is no admissible evidence of any account showing that transfer, nothing was presented to show that the 1<sup>st</sup> Respondent requested for any payment from Bestworth. Nothing was presented to show that the 1<sup>st</sup> Defendant assisted Bestworth in any way whatsoever. Having failed to show that any of the elements of section 17 of the Corrupt Practices and Other Related Offences Act was violated by the 1<sup>st</sup> Defendant, nothing is warranting the need to subject the 1<sup>st</sup> Defendant to put in a

defence. In such a situation, it is permissible of the Defendant to file for a no case submission as in this suit before this Court. He cited the case of ***MUSTAPHA VS. FRN (2019) LPER- 50662 (CA)***.

It is further the argument of the learned counsel that for a charge bordering on breach of section 17(1)(a) to succeed, it is not enough to show payment into the account of the 2<sup>nd</sup> Defendant. The reason of the payment must also be proven. In this case it was not. Other than that, there was no evidence that the 1<sup>st</sup> Defendant did anything to Best worth Insurance Limited in his official capacity as to warrant an allegation of violation of section 17(1)(a).

Learned counsel submits that the way in which a trial Court examines if a prima facie case has been established or not, is by looking at the entire processes before the trial Court including the charge, the statement of offence, the statement of prospective witnesses and the statements of the Defendant. He cited ***DARIYE VS. FRN (2015) LPELR***.

Learned counsel made reference to the cross-examination of PW5 at the proceedings of 17<sup>th</sup> day of October, 2024.

Learned counsel submits that any piece of evidence elicited under the fire of cross examination, is in the eyes of the law, potent evidence that runs parri passu with the ones from the evidence in chief. The cases of ***GAJI VS. PAYE (2003) NWLR (Pt. 583); AKOMOLAFE VS. GUARDIAN PRESS LTD. (2010) 3 NWLR (Pt. 1181) 338*** were cited.

Learned counsel further submits that there must first be evidence that it is the 1<sup>st</sup> Defendant that influenced payment to be made to Best worth before the 1<sup>st</sup> Defendant can be accused of violating the provisions of section ***17(1)(a) of the Corrupt Practices and Other Related Offences Act***. There is nothing before this Court to prove that fact. The Elements of these offence have not been proven and the burden is on the prosecution to prove same. He cited ***YAKUBU VS. FRN (2020 LPELR-GG (SC))***.

Learned counsel added that to request the Defendant to put a defence or explain the payment is to request the Defendant to prove his innocence, which cannot be, that is the reason why this Court struck down the provisions of 53 and 60 of the ICPC Act on the ground that it violated the provisions of section 135(1) of the Evidence Act and section 36(5) of the Constitution of the Federal Republic of Nigeria.

In conclusion, from the totality of the evidence adduced by the Prosecution and those elicited through cross-examination, the Court is urged to hold that no prima facie case has been made out against the 1<sup>st</sup> Defendant sufficient for the Court to call on him to enter his defence.

Learned counsel respectfully prays that the Court upholds their no case submission and discharge and acquit the 1<sup>st</sup> Defendant.

On their part, learned counsel for the 2<sup>nd</sup> Defendant filed their written address, wherein sole issue was raised for determination to wit;

**Whether from the facts and evidence led so far in this trial, the prosecution has made out a prima facie case linking the 2 defendant to the alleged crime to warrant it to enter defence.**

It is the submission of the learned counsel that before an accused person can be convicted of a crime under the law in this instance, Section 17 (1) (a) & (c) of the Corrupt Practices and Other Related Offences Act, 2000, the court must ensure that it is satisfied that all elements/ingredients of the offences charged have been proved. The Court is referred to the case of **AMADI VS.**

***THE STATE (1993) 8 NWLR (Pt. 314), page 644 at 664 Paragraphs A-D was cited.***

Learned counsel submits that from the analysis of the evidence at the trial, a prima facie case was not made out against the 2<sup>nd</sup> Defendant. The case of the prosecution is weak and faltering right from its inception, the facts presented failed to support the charge and once a case is weak, there is no way of presenting it to give it the appearance of strength, the strength of a case depends not on the witnesses but by the substance of the facts. In this instance, there was nothing that the witnesses could do about the glaring fact elicited from them. Each and every one of the witnesses made statements that supported the case of the Defendants in one way or another.

Learned counsel further submits that from the evidence elicited from cross-examination of PW1, PW4 and PW5 as well as Exhibits "A", "B", "C", "I", "J" and "K" respectively one thing is crystal clear, all the witnesses are ad litem that the approval given by Council on privatization vide Exhibit "J" for the payment of **N27,100,000,000.00 (Twenty-Seven Billion, One Hundred Million Naira)** only was to Great Nigerian insurance Plc. and not to Best worth Insurance Brokers Limited as contained on the

charges. That at the proceedings of 15<sup>th</sup> July, 2021 PW1 confirmed that the inflow of **N26,236,594,986** was from Central Bank of Nigeria (CBN) to Best worth Insurance Brokers Ltd, and then there was an inflow totaling **N1,000,000,000.00 (One Billion Naira)** only from Best worth Insurance Brokers to the 2<sup>nd</sup> Defendant's account was the approved company by the General Council on privatization to handle the scheme is not the same as Best worth Insurance Brokers Ltd, whom the 1<sup>st</sup> Defendant is alleged to have received gratification from through the 2<sup>nd</sup> Defendant.

It is therefore the submission of the learned counsel that the law is well settled on this, for a public officer to be guilty of official corruption, there must be a clear connection between the receipt of such gratification and the performance of the act in relation to his official duty. A public officer cannot be held accountable with respect to a crime that is totally unrelated to his official duty or mandate. The case of ***THE QUEEN VS. AUTA BOKKOS (1962)*** ***NNLR Page 25 at 27*** was cited.

Learned counsel further submits on this note that the said charges are defective. This Honorable Court is empowered by law to protect an accused person from oppression by entertaining an

application to quash a criminal proceeding where the charge is said to be defective or bad. He cited the case of ***EZEZE VS. STATE (2004) 14 NWLR (Pt. 894) Page 491 at 504-505, Paragraphs G-B.***

Learned counsel submits that by law, this honorable Court has the inherent power to discharge and acquit the Defendant where the prosecution as seen in the instant case failed to discharge the burden placed on it by proving all the ingredients of the offence of accepting gratification thereby linking the Defendants to the alleged Crime. The case ***of ABACHA VS. STATE (2002) 11 NWLR (Pt. 779) Page 533, Paragraphs B-C, Per KATSINA-ALU, J.S.C was cited.***

Learned counsel submits that from the totality of the evidence tendered before the Court, nothing suggest that the 2<sup>nd</sup> Defendant received any gratification on behalf of the 1<sup>st</sup> Defendant who was the former DG of BPE, there is nothing before the Court to establish or prove that the 1<sup>st</sup> Defendant in the course of his official duty corruptly asked for the sum of **N1,000,000,000.00 (One Billion Naira)** only from Best worth Insurance Brokers when in factual term it was Great Insurance Nigeria Ltd. that the 1<sup>st</sup> Defendant was meant to

transact with officially. In the same vein, there is no evidence from any of the five witnesses called by the prosecution and exhibits tendered that establishes beyond reasonable doubt that the funds transferred from Best worth to the 2<sup>nd</sup> Defendant was meant to induce or influence the 1<sup>st</sup> Defendant to act in a manner contrary to his official duty or as a reward for acting contrary to his official position.

Learned counsel submits that assuming without conceding that the funds received by the 2<sup>nd</sup> Defendant from Best worth Insurance Brokers Ltd was actually meant for the 1<sup>st</sup> Defendant. By law the 1<sup>st</sup> Defendant will still not be criminally liable as there is no evidence on record of any outflow from the 2<sup>nd</sup> Defendant directly to the 1<sup>st</sup> Defendant. More so, the 2<sup>nd</sup> Defendant is an entity, a corporate personality that can sue and be sued on its own. Thus the liability of the 2<sup>nd</sup> Defendant cannot be transmigrated to the 1<sup>st</sup> Defendant.

Learned counsel further argued that PW2 in his testimony, told the Court that EFCC wrote to his Bank requesting for the statement of account, account opening package and mandate of Brains and Hammers, upon receipt of the letter, they wrote to EFCC attaching all the documents requested which were delivered

to the commission together with a Certificate of Identification. The Statement of Account, Account Opening Package and Certificate of Compliance were admitted as Exhibit "D". The witness further informed the Court that there was a credit inflow of the sum of **N97,500,000.00 (Ninety-Seven Million, Five Hundred Thousand Naira)** only into the account of Brains and Hammers Limited from the 24 Defendant on the 23<sup>rd</sup> February, 2015

It is the contention of the learned counsel that under Cross-Examination, PW2 admitted that it was the letter of 11<sup>th</sup> January 2017 from EFCC that brought about the Statement of Account (Exhibit "D"), whereas the document (Certificate of Compliance) was dated 8<sup>th</sup> April, 2021. Consequently Counsel to the 1<sup>st</sup> Defendant-Abdul Mohammed, SAN, observed that the bundle of charge was filed on the 8<sup>th</sup> February, 2021 which presupposes that the charge against the Defendants had been prepared before EFCC received the Certificate of Compliance from the bank.

Learned counsel therefore submits that the law is clear, documents or statements made or procured during the pendency of a case are generally not admissible and the Court are precluded from acting on it. He cited ***A. INT'L LTD. VS. S.K.***

***INT'S ENT. LTD (2010) 13 NWLR (Pt. 1211) Page 270 at 303 - 304, Paragraphs E-A and Section 91 (3) of the Evidence Act, Cap. 112, Laws of the Federation of Nigeria, 1990, (Now Section 83 (3) of the Evidence Act 2011)"***

In reviewing the evidence and documents tendered during the trial, learned counsel submits that the prosecution has failed to establish a prima facie case against the Defendants. More so, there is no scintilla of evidence on record that linked the 2<sup>nd</sup> Defendant to the alleged crime. Thus, this is an appropriate case deserving of a no case submission. The requirement of proof beyond reasonable doubt to secure a conviction for any criminal offence is quite clear. Where the Court is satisfied that from the totality of the evidence adduced that a reasonable doubt has been created, the prosecution would have failed in its duty to discharge the burden of proof which the law imposes upon it, thereby entitling the accused person to the benefit of doubt resulting in his discharge and acquittal. He cited the case of ***AFOLALU VS. STATE (2010) 16 NWLR (Pt. 1220) Page 584 at 605, Paragraphs A-D.***

Learned counsel contends that apart from the case law, the current applicable statutory provision on No Case Submission is

Section 302 of the Administration of Criminal Justice Act (ACJA) which empowers the Courts to suo motu to discharge a Defendant after the case of the prosecution where as in this very case, the evidence against the Defendants are not only weak and dubious, but insufficient to warrant an answer from the Defendants.

Learned counsel submits on the whole that a prima facie case has not been established by the prosecution that the Defendants received bribe or gratification from Best worth Insurance Brokers Limited. The testimonies of all the prosecution witnesses could not pin them to the crime, the evidence of PW2 and PW3 revolves around the transaction that transpired on the accounts of the 2<sup>nd</sup> Defendant, Brains and Hammer, SilaNeke Integrated Services Limited and Kumo Gomo Nigeria Limited which do not have any connection to the alleged crime.

Learned counsel further submits that the evidence of PW1, PW4 and PW5 totally exonerated the Defendants by their admission that the 1<sup>st</sup> Defendant acted in accordance with the instruction of the General Council on privatization by releasing **N27,000,000,000.000.00 (Twenty-Seven Billion Naira)** only as Group Life and Personal Accident Insurance for the staff

of the default PHCN pursuant to the approval from the General Council on Privatization. Fundamentally, PW4 admitted that Great Insurance Nigeria Plc. was the original company approved to handle the scheme and not Best worth Insurance Brokers Ltd.

Learned counsel submits that in the light of the foregoing, this is a proper case for the Court to exercise its discretion under Section 302 of the Administration of Criminal Justice Act, 2015 to discharge and acquit the Defendants of the charges against them.

The Court is urge to so hold as prayed.

In conclusion, learned counsel submits that the prosecution has not made out a case sufficient to warrant the Defendants particularly the 2<sup>nd</sup> Defendant to be called upon to enter its defence, thus it should in the interest of justice be discharged and acquitted.

In line with the law and procedure, The Prosecution filed Composite to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants written addresses of No Case to Answer wherein sole issue was formulated for determination, to wit:

**Whether from the overwhelming oral and documentary evidence presented by the Prosecution, the Prosecution**

**has not established a prima facie case against the Defendants to warrant this Honourable Court to call upon them to enter their defence?**

It is the submission of the learned counsel that "no case submission" simpliciter connotes where there is no evidence on which the court could convict even if the court believed the evidence before it. The court is required at this stage to make a finding of guilt or otherwise, rather, to consider whether from the totality of the evidence before it, the prosecution has made out a prima facie case against the Defendants to warrant them to enter their defence. He cited section 302 of the Administration of Criminal Justice Act, 2015

Learned counsel argued that the 1<sup>st</sup> and 2<sup>nd</sup> Defendant submitted in their respective no case submission that the prosecution has not made out a prima facie case against Defendants, worthy of them being called upon to make any explanation whatsoever in their defense. Prima facie case has been defined in plethora of cases to mean a reason/ground for proceeding. It's not the same as proof beyond reasonable doubt which comes later when the court has to find whether the Defendants are guilty or otherwise. He cited ***IGABELE VS. STATE (2004) 15 NWLR (Pt. 896)***

**314 at 332-333 Paragraphs H-A** and the provision of section 17(1)(a) & (c) of the Corrupt Practices and Other Related Offences Act, 2000.

Learned counsel further argued that it is significant to analyze the provision under section 17(1)(a) & (c) of the Corrupt Practices and Other Related Offences Act, 2000, 2015 viz a viz the evidence adduced by the Prosecution in order to determine whether a prima facie case has been made out against the 1<sup>st</sup> and 2<sup>nd</sup> Defendants to require them to enter their defence.

***i. THE DEFENDANTS CORRUPTLY ACCEPTS, OBTAINS, OR AGREE TO ACCEPT OR OBTAIN OR ATTEMPT TO OBTAIN FROM ANY PERSON FOR HIMSELF OR FOR ANY OTHER PERSON***

It is the learned counsel's submission that from the totality of the testimonies of Prosecution witnesses particularly the evidence of PW1 - PW5, the prima facie case of the aforementioned ingredients have been proved. The fact that the 1<sup>st</sup> Defendant accepted the sum of **N1,000,000,000.00 (One Billion Naira)** through the 2<sup>nd</sup> Defendant is not in dispute.

Learned counsel argued that by Exhibit "M", "N", and "O", the 1<sup>st</sup> Defendant is a Director in the 2<sup>nd</sup> Defendant and a signatory to

the 2<sup>nd</sup> Defendant's Account with Polaris Bank (Exhibit "A"), that there is no justifiable reason both in law and in facts for the 1<sup>st</sup> Defendant to benefit from monies meant as benefits for the Deceased and Incapacitated Staff of PHCN.

ii. ***THE GIFT OR CONSIDERATION IS AN INDUCEMENT OR REWARD FOR DOING, FORBEARING TO DO OR FOR HAVING DONE OR FORBORNE TO DO ANY ACT OR THING.***

Learned counsel contends that PW4-Alex Okoh testified as the Director General Bureau for Public Enterprise. He stated that the 1<sup>st</sup> Defendant, Mr. Benjamin Ezra Dikki as the DG of BPE and also a member and secretary of the National Council on Privatization and the officer presented a memo in 2014 to the National Council on Privatization requesting council's approval for the payment of the sum Of **N27,100,000,000.00 (Twenty Seven Billion. One Hundred Million Naira)** as benefits for the group life and personal accident insurance for the staff of the defunct PHCN. That the D G of BPE is a member and secretary who presented the memorandum and requested the council's consideration and approval.

That on the 2<sup>nd</sup> December, 2014 the 1<sup>st</sup> Defendant issued a transfer instruction to two Banks. (Zenith Bank Plc.) for the transfer of **N10,000,000,000.00 (Ten Billion Naira)** and Access Bank for the transfer of **N17,100,000,000.00 (Seventeen Billion, One Hundred Million Naira)** on the same date totally **N27,100,000,000.00 (Twenty Seven Billion, One Hundred Million Naira)**

Learned counsel further contends that by the testimony of PW4 Director General of BPE, the 1<sup>st</sup> Defendant was directly involved in the processes leading to the approval and subsequent release of the sum of **N26,236,594,966.00** from Power Holding Company of Nigeria staff severance benefits domiciled with Central Bank of Nigeria. Exhibit "I" and Exhibit "J", which are the memo requesting for approval raised by the 1<sup>st</sup> Defendant underlined the work done by the 1<sup>st</sup> Defendant.

That Exhibit "G" is the 1<sup>st</sup> Defendant's transfer instruction to Zenith Bank to transfer **N10,000,000,000.00 (Ten Billion Naira)**, while Exhibit "H" is a transfer instruction to Access Bank to transfer **N17,100,000,000.00 (Seventeen Billion One Hundred Million Naira)** to Central Bank PHCN Severance Account, which was later transferred to Bestworth Insurance

Brokers Limited's Polaris Bank Account, thereafter, the sum of **N1,000,000,000 (One Billion Naira)** was transferred as reward to the 1<sup>st</sup> Defendant through the 2<sup>nd</sup> Defendant for the role he played in the released of the funds.

Learned counsel submits therefore that the transfer of the sum of **N1,000,000,000 (One Billion Naira)** was a consideration or reward for facilitating the release of the sum of **N27,000,000,000 (Twenty Seven Billion Naira)**.

Learned counsel submits that the 1<sup>st</sup> Defendant being a Public Officer at the time had the duty not to place himself in a position where his personal interest conflicts with his duties and responsibilities. He cited section 5 of the Code of Conduct Bureau and Tribunal Act, LFN 2004 and section 172 of the 1999 Constitution of the Federal Republic of Nigeria (as amended).

Learned counsel contends that the Defendants strenuously argued that the evidence of PW1, PW2 and PW3 are not documentary, hearsay and submitted that Pw1 is not in a position to give evidence on Exhibit "A", "B" and "C" because he is not the maker of the document and does not know the circumstances in which the inflow t Exhibit "A", "B" and "D" were made.

Learned counsel submits on the above that the Defendant's argument is misconceived and grossly misleading. Polaris Bank Plc., Fidelity Bank Plc. and Union Bank of Nigeria Plc. are going concerns with perpetual session. The Banks are the maker of the exhibits, as well as the custodians of Exhibits "A", "B", and "D". The Certificate of identification tendered and admitted in evidence informed the court the circumstances in which the Exhibits were produced; it was produced by HP computer during a period in which the computer was regularly used to store and process information relating to the transactions. Exhibit C and E clearly stated that the content of Exhibits "A", "B" and "D" are the same as what is contained on the bank's server.

That the bank being on artificial person cannot testify or tender documents before this honorable court, hence the Compliance officers represented the banks. PW1, PW2 and PW3 stood in the witness box as the Bank itself. He cited ***UBA PLC. VS. JASE MOTORS NIG LTD. (1997) 2 NWLR (Pt. 488) 405 R5;***

***KATE ENT. LID VS. DAEWOO (NIG) LTD. (1985) 2 NWLR (Pt. 15) 116.***

Learned counsel submits that Section 85 of the Evidence Act provides that the content of a document may be proved by either

primary or secondary evidence. PW1, PW2 and PW3 tendered the primary evidence and linked the 1<sup>st</sup> and 2<sup>nd</sup> Defendant to the commission of the alleged offence and the Court is urged to hold so.

Learned counsel further urged the Court to discountenance the Defendants' argument that the testimony of PW4 is hearsay because he was not part of the National Council on Privatization when the transaction occurred, PW4 testified as the Director General of Bureau of Public Enterprise, the same office the 1<sup>st</sup> Defendant occupied at the time the recommendation was made and approval obtained. The office of the DG BPE has a perpetual succession whoever occupies the office has access to the actions and steps taken by his predecessor. PW4 tendered Exhibit "I" and "J" having emanated from his office.

The Defendants further argued that, despite the prosecution evidence that the sum of **N27,188 232,208.20** was approved for payment as Insurance benefits to the deceased and incapacitated staff of PHCN there is no evidence presented nor any statement of account showing the said sum of **N27 188.232.208.20**, counsel submits that by Exhibits "I" and "J", the National Council on Privatization recommended to the then

President Goodluck Jonathan the sum of **N27.188.232.208.20** as Insurance benefits for deceased and incapacitated staff of PHCN which was approved. Exhibit "G" and "H". which are transfer instruction by the 1<sup>st</sup> Defendant to Zenith Bank and Access Bank saw a transfer of N27 Billion to the PHCN severance account with the Central Bank of Nigeria. It is the evidence of PW5 that there was a tax deduction on the said sum and the sum of **N26.236,594 966.00** was finally paid into Bestworth Insurance and Brokers Limited's account with Polaris Bank Plc. after which **N1,000,000,000.00** was transferred to the Defendants as reward. Counsel submits that this issue canvassed by the Defendants is merely a storm in a tea cup. The sum of money against which the Defendants are charged and as contained in the charge is the sum of **N1 000,000,000 (One Billion Naira)** which is clearly stated and not the sum of **N27,188,232,208.20** or **N26,236,594,966.00** which the Defendants have made huge storm out of it, the charge as laid out is not at variance with the evidence tendered and there are no contradictions in the prosecution case nor was it discredited under cross examination. He cited the case of ***AGBO VS. THE STATE (2006)6 NWLR (Pt.977)545.***

The Defendants claimed that there is nothing linking them to the commission of the offence. Counsel submits that there are overwhelming evidence particularly Exhibits "A", "B" and "P" that shows the sum of **N1,000,000,000.00 (One Billion Naira)** was paid transferred to the Defendants as reward for the role played by the 1<sup>st</sup> Defendant in the approval and subsequent release of the sum of **N26,236,594,966.00** as Insurance benefits for the deceased and incapacitated staff of PHCN. The Prosecution has proved the essential elements of the offence of gratification under section 17(1)(a) of the Corrupt Practices and other related offences Act, 2000.

The Defendants made a futile attempt to discredit the exhibits tendered. By this attempt, the Defendants are inviting this Honorable Court to express an opinion on the credibility or otherwise of these exhibits, which this Court must refrain from doing so at the stage of no case submission. ***AGBO & OTHERS VS. STATE (2013) LPELR-20388 (SC) was cited.***

Learned counsel contends that there is need for the Defendants to explain why the sum of **N1,000,000,000.00 (One Billion Naira)** meant as Insurance benefits for the deceased and incapacitated staff of PHCN was transferred to them wherein

none of the Defendants is a direct or indirect beneficiary of the funds. The necessity of this explanation is the reason the instant submission of the Defendants' no case to answer must fail and consequently be overruled by this Court. He cited ***AGBO & ORS VS. STATE*** (supra).

In conclusion, learned counsel submits that if the court believed the evidence before it, is there evidence on which the court could convict? The question is answered in affirmative. There are substantial evidence before this honorable Court for the Defendants no case submission to fail. The evidence put forward by the prosecution has demonstrated a prima facie prove on the various Ingredients of the offence upon which the defendants are charged, as such, the Court is urge to dismiss the Defendants' no case submission and call on them to enter their defence.

In turn, learned counsel for the 1<sup>st</sup> Defendant filed reply on points of law to the Prosecution's composite reply to the 1<sup>st</sup> and 2<sup>nd</sup> Defendant's No case to Answer.

On their part, 1<sup>st</sup> Defendant filed reply on point of law to the Prosecution's composite reply to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' No Case to Answer.

Learned counsel submits that it is a settled principle of law that Counsel and the Court are duty bound to rely on the evidence placed before the Court and not to succumb to speculations and mere conjectures. He cited ***ONUEGBU & ORS. VS. GOV. OF IMO STATE & ORS. (2024) LPELR-62620(SC)***. From the totality of evidence presented before this Court, there is nothing that entitled the Prosecution Counsel to submit as they did that ***"Instead of onward payment to the deceased and incapacitated staff of PHNC, the 1<sup>st</sup> Defendant through his company, Kebna Studio & Communication Limited, corruptly accepted the sum of N1,000,000,000.00 (One Billion Naira) through the 2<sup>nd</sup> Defendant Polaris Bank Account and used same for his personal benefits"***

***Or***

***The fact that the 1<sup>st</sup> Defendant accepted the sum of N1,000,000,000.00 (One Billion Naira) through the 2<sup>nd</sup> Defendant is not in dispute".***

Learned counsel submits that in the course of narrating the fact of every case before the Court, counsel owes a duty to put the fact as it is. ***FAWEHINMI VS. N. B. A. (NO. 2) (1989) 2 NWLR (Pt. 105) 558, Page 618, Paragraphs D-E was cited.***

Learned counsel contends, that there is no scintilla of EVIDENCE which can be acted upon before the Court that the payments made to the 2<sup>nd</sup> Defendant by Bestworth are for the 1<sup>st</sup> Defendant. There is also no evidence that the 1<sup>st</sup> Defendant participated in any way for payments to be made to Bestworth. Infact, from the record and evidence presented before the Court particularly Exhibit "K" (Letter from the Accountant General to the 1<sup>st</sup> Defendant. Exhibit "J", Minute of the Meeting of the National Council on privatization, and Exhibits "G" and "H". (Transfer instructions made by the 1<sup>st</sup> Defendant for payment to be made to the Account controlled and managed by the Accountant General of the Federation, there is nothing to show that the 1<sup>st</sup> Defendant was privy to and or participated in any decision whatsoever leading to the payment made to Bestworth or that "the 1<sup>st</sup> Defendant initiated the process leading to the approval of the said sum by the then President Goodluck Jonathan."

Learned counsel further contends that there is also no evidence before the Court that the 1<sup>st</sup> Defendant got any part of the payment made to the 2<sup>nd</sup> Defendant either directly or otherwise. Purchases of property by Silneka Global International Services as contained in Exhibit "E" and payments to Brains and Harmers as contained in Exhibit "D" is indeed not proof of any crime. This is

further buttress by the fact that Silneka Global International Services though could have been charged is not charged with any offence at all.

Learned counsel cited the cases of ***SALOMON VS. SALOMON & Co. LTD. (1897) AC 22 5 NWLR (Pt. 446) 17.*** Thus, the submission that "Exhibit "A" which is the 2<sup>nd</sup> Defendant's **(Kebna Studios & Communication Limited) Polaris (formerly Skye Bank) account No 1771649525,** demonstrated how the 1<sup>st</sup> Defendant did correctly accepted **N1,000,000,000.00 (One Billion Naira)**" is not only incorrect but also not acceptable evidence that payment made to the 2<sup>nd</sup> Defendant is payment made to the 1<sup>st</sup> Defendant in the eyes of the law.

It is also counsel's submission that, there is no scintilla of evidence, whether documentary as contained in Exhibit "A" (Statement of Account of the 2<sup>nd</sup> Defendant) or Exhibit "B" (Statement of Account of Bestworth Insurance Brokers Ltd.) or the oral testimony of PW1, (the official of Polaris Bank) or any other witness presented by the prosecution to show that payments received by the 2<sup>nd</sup> Defendant were payments made in favour of the 1<sup>st</sup> Defendant "for your role in facilitating the

approval of **N27,188,232,208.20**" as to entitle the Prosecution to make such a statement.

Learned counsel submits that with this admission against interest, the no case submission ought to be upheld because the law is settled that admission is the best form of evidence. He cited ***REGISTERED TRUSTEE, ECWA CHURCH VS. IJESHA (1999) 13 NWLR (Pt. 635) 368.***

Learned counsel argued that the submission of counsel, that "these monies were part of the **N26,236,594.966.00** earmarked for the payment of outstanding Insurance benefits for the deceased and incapacitated staff of Power Holding Company of Nigeria" is not supported by any evidence at all.

Learned counsel further submits, that the evidence needed to show that these monies were paid as gratification is not before the Court as PW1 did admit that he did not know the basis for which the payment was made and the person who could give the evidence for the prosecution, i.e. the officials of Best Worth Insurance and Brokers Limited were not called before this Court. It is in the light of this that counsel submits that the evidence given by PW1 is hearsay. He cited the case of ***KATE***

***ENTERPRISES LTD VS. DAEWOOD (NIG) LTD. (1985) 2  
NWLR (Pt. 5) 116.***

It is the contention of the learned counsel that the documentary evidence of the transfer made by the 1<sup>st</sup> Defendant to the account of the Accountant General of the Federation maintained in the Central Bank of Nigeria as can be gleaned from Exhibit "G" and "H" is **N27,100,000.00**. There is also no evidence to show that it was the 1<sup>st</sup> Defendant that authorized the payment or participated in the process for the payment of the sum of **N26,236,594,966.00** to Best Worth Insurance and Brokers Limited. He cited the case of ***IBEZIAKO VS. C.O.P (1963)*** ***NNLR 88 at 94 .***

Learned counsel argued that the Prosecution contends that the issue of the absence of proof that the sum of **N27,188,232,208.20** to any account at all, or the payment of the authorization of the payment of the said sum to Best Worth Insurance and Brokers Limited is a storm in a tea cup. According to them. Counsel submits that presentation of proof that the 1<sup>st</sup> Defendant facilitated the payment of the sum of **N27,188,232,208.20** is very crucial to the sustenance of this Charge as the prosecution must first prove that the approval for

the payment of this amount was actually facilitated by the 1<sup>st</sup> Defendant before it can succeed with its contention that the sum of **N1,000,000,000.00** was paid to the 1<sup>st</sup> Defendant for his "role in facilitating the approval of **N27,188,232,208.20**".

It is the contention of the learned counsel that there lies the importance of the need to prove that the sum of **N27,188,232,208.20** was actually paid to Best Worth Insurance and Brokers Limited as that sum of **N1,000,000,000.00** is the 1<sup>st</sup> Defendant. The absence of that payment renders the entire charge a still born, dead on arrival. Therefore, the decision of ***AKPAKPAN VS. STATE (2021) LPELR 56220(SC)*** would not apply in this instant case as the evidence sought to be presented by the prosecution in this case is tied to the proof of the payment which the 1<sup>st</sup> Defendant is alleged to have used his office to secure.

The submission of the Prosecution that the 1<sup>st</sup> Defendants "corruptly obtains or agree to accept or obtain or attempt to obtain from any person for himself or for any other person is totally misconceived and a scheme aimed at misleading this Court. From the totality of evidence before this Court, the Prosecution failed to prove this key ingredient of this offence. The Prosecution

from the evidence presented so far failed to establish that the 1<sup>st</sup>Defendant corruptly obtain or agree to accept or attempt to obtain from any person for himself or for any other person the sum of **N1,000,000,000.00** for his **"role in facilitating the approval of N27,188,232,208.20"** Similarly, the Prosecution failed to establish a link between the 1<sup>st</sup>Defendant and Best Worth Insurance and Brokers limited.

Learned counsel submits that the law does not permit evidence which is of no probative value to be relied upon by a party or to be acted upon by the court. He cited ***ROCKONOH PROPERTY CO. LTD. VS. NITEL PLC. (2001) 14 NWLR (Pt. 733) 468.*** In this case there is no such evidence to even allow for conjectures. Counsel therefore submits that the submissions under reference is misleading and an attempt to present the misconceived imaginations of the Prosecution, as the facts proven before the Court. Those submissions should be discountenanced by the Court.

The Prosecution also relied on Exhibits "I" and "J" and the testimony of PW5 to submit that it has proven that the 1<sup>st</sup> Defendant played his "role in facilitating the approval of

**N27,188,232,208.20"** PW5 is the witness who during his cross – examination made the following admissions.

- i. The resolution to pay Great Nigerian Insurance Plc. was a decision of the Council. No other member of the Council is standing trial before any Court of Law
- ii. The Memo (Exhibit "1") did not authorized payment to be made to Best Worth Insurance and Brokers Limited and there was no evidence showing that the 1<sup>st</sup>Defendant authorized payment into the account of Best Worth Insurance and Brokers Limited in the Record of the Bureau of Public Enterprise where the 1<sup>st</sup>Defendant was Director General or from the National Economic Council where the 1<sup>st</sup> Defendant was Secretary.
- iii. It was the office of the Accountant General of the Federation that authorized the payment to Best worth Insurance and Brokers Limited and not the Bureau of Public Enterprise of the National Economic Council.
- iv. That the appointment of Great Nigerian Insurance Plc. was already in place prior to the privatization of the Power Holding Company in Nigeria.

- v. That it is Great Nigerian Insurance Pie that introduced Best worth Insurance and Brokers Limited to the Accountant General of the Federation.
- vi. That the 1<sup>st</sup> Defendant had no hand in the appointment of Best worth Insurance and Brokers Limited.

It is also counsel's submission that, going by the testimony of PW5 which was obtained during cross-examination, the contention of the prosecution that any credible evidence was elicited from this witness in proof of the essential elements of the offences for which the 1<sup>st</sup> Defendant was charged is indeed baseless. He cited the case of ***IGWE VS. STATE (2021) LPELR-55336 (SC)***.

Learned counsel submits that the invitation to violate the Constitution as this is an invitation for the Defendants to come and prove their innocence. The reason for this submission is because of the provisions of Sections 33 and 60 of the Corrupt Practices and Other Related Offences, 2000 ICPC Act.

Counsel cited the case of ***FRN VS. ADEMOLA (supra)*** the Court of Appeal affirmed the decision of this Court that the proof of receipt of money simpliciter without the proof of the reason of the receipt of the money must lead to a discharge of a Defendant

under section 17 of the ICPC Act as the provisions of Section 53 and 60 of the Corrupt Practices and Other Related Offences Act, 2000 which places the burden on the Defendant to provide an explanation of the reason for the payment is a violation of the presumption of innocence which is contrary to the provisions of the Constitution. The Court of Appeal per Ige JCA at page 56 to 57 paragraph G to A.

The case of ***FRN VS. ADEMOLA (supra)*** was presented in Prosecution's address did not deny its import, the Prosecution cannot urge the court to discountenance a valid decision of this Court which has been affirmed by the Court of Appeal.

Learned counsel submits further that the law is trite that an argument no matter how brilliant does not take the place of evidence and legal proof, the prosecution failed to prove vide evidence that the sum of **N1,000,000,000.00** was given to the 1<sup>st</sup> Defendant as reward or gratification for his **"role in facilitating the approval of N27,188,232,208.20"** as contained on all the Counts of the Charge. He cited ***PIUS VS. STATE (2016) LPELR-10657 (SC) at 38 (A-E)***.

Finally, contrary to the contention of the prosecution that the review of the evidence by the 1<sup>st</sup> Defendant is inviting the court to

express an opinion on the evidence led, counsel submits that the review of the evidence is only to show how the evidence of the prosecution has been discredited by the prosecution in line with the dictate in the case of ***IBEZIAKO VS. COP (Supra) recently affirmed in the case of FRN VS. ADEMOLA (Supra)***.

Learned counsel finally submits that the 1<sup>st</sup> Defendant only exposed the lapses and lacunas in the evidence tendered by the Prosecution and the failure of the Prosecution to establish a prima facie against the 1<sup>st</sup> Defendant as well as failure to prove through evidence the ingredients stipulated in Section 17(1)(a) of the corrupt practices and other related offences Act 2000. The case of ***CHYFRANK NIGERIA VS. FRN (2019) LPELR-46401(SC) (Pt. 11-12) Paragraph C was cited.***

Learned counsel therefore urge this Court to discountenance the prosecution's composite reply to the 1<sup>st</sup> and 2<sup>nd</sup> Defendants' no case to answer and uphold their application for No case submission.

### **COURT:-**

It is the duty of the Prosecution, always, to establish the guilt of a named accused person in view of the presumption of innocence enjoyed pursuant to section 36(5) of 1999 Constitution of FRN.

It is therefore the choice of an accused person to either proceed to give evidence by way of its Defence or urge the court to discharge him/her on a No Case to Answer on the strength of the fact that Prosecution has not made out any case against him/her from the available evidence before the court warranting such Defence to be entered.

That is, on the whole, the purpose of a No Case to Answer... strictly speaking, as a Defence of No Case to Answer should be limited to law, there will be no harm discussing the law in the ruling.. But one soon discovers that no meaningful discussion of the law can be made in vacuo, without any reference to the facts.

If law and facts are thus to be discussed, then it is much wiser to be careful not to stray into the domain of final judgment. A lot has been said by both Prosecution and Defendants.

It is my ruling that Defendants shall do the needed justice to the facts and Exhibits if they enter their defence and lead evidence.. I say no more.

I therefore overrule the submission of learned senior counsel for the 1<sup>st</sup> Defendant in the Defence of No Case and I shall give exhaustive reason in my final judgment.

I rely on the following cases:-

***BELLO VS. STATE (1966) 1 ALL N.L.R 223 at Page 227;***

***ATANO VS. A.G BENDEL STATE (1988) 2 NWLR (Pt. 75)  
201 at 231 – 232.***

***Justice Y. Halilu  
Hon. Judge  
16<sup>th</sup> July, 2025***

## **APPEARANCES**

1<sup>st</sup> Defendant in court.

**Christ Msheli, Esq.** – for the Prosecution

**Abusufyanu Abubakar, Esq.** – for the 1<sup>st</sup> Defendant.

**O.O Joel, Esq.** – for the 2<sup>nd</sup> Defendant.