

CASES REFERRING TO THE KING REPORT

1. MYBURG V BARINOR HOLDINGS (PTY) LTD AND ANOTHER¹:

"[16] Barinor had two answers to this proposal. The first is that, on a practical level, it needed to retain Boshoff's expertise while negotiations for the two big property developments were ongoing. The second was a more principled one, based on the King code on corporate governance: that is that the executive positions of CEO and FD should be kept apart." (STEENKAMP J)

"[18] With regard to the second proposal, the current structure of a financial manager reporting to the CEO is not ideal. The incumbent of the financial manager position has made a number of elementary errors. But that in itself does not make the dismissal substantively unfair merely because Barinor rejected Myburgh's proposal. Its reliance on the King III principles is persuasive." (STEENKAMP J)

2. MTHIMUNYE-BAKORO V PETROLEUM OIL AND GAS CORPORATION OF SOUTH AFRICA (SOC) LIMITED AND ANOTHER²:

"The meeting of 18 June 2015 was in violation of these principles. Thus, it stood to be declared unlawful and the decisions and resolutions taken and passed at the meeting had to be declared invalid and of no force and effect. In this connection he cited the judgment in *South African Broadcast Incorporation Limited v Mpofu and Another* [2009] 4 ALL SA 169 (GSJ) in which a full bench approved certain basic principles of corporate governance relying, *inter alia*, on the King Report on Corporate Governance for South Africa (which is referred to as the King Code)." (DAVIS J)

1 *Myburgh v Barinor Holdings (Pty) Ltd and Another* (C 820/13) [2015] ZALCCT 1.

2 *Mthimunye-Bakoro v Petroleum Oil and Gas Corporation of South Africa (SOC) Limited and Another* (12476/2015) [2015] ZAWCHG 113; 2015 (6) SA 338 (WCC).

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