FORENSIC ACCOUNTING AS PANACEA TO THE MANAGEMENT DILEMMA OF OIL REFINERIES IN NIGERIA

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ABSTRACT

Corruption acts behind the scenes to damage economies, democracy and people's lives. Nigeria is oil rich and yet most people live in poverty. Despite its abundant energy reserves, oil has become something of a curse to the nation's populace, as the country today depends largely on importation of refined petroleum products. This paper, using the secondary data research methodology, chronicles the developments hindering the success of the oil refinery business in Nigeria and projects forensic accounting, which is the application of accounting knowledge and investigative skills to identify and resolve legal issues as panacea to Nigeria's refining capability that has been hampered by corrupt officials. It showcases the forensic accountant as a risk manager, corporate governance technocrat and anti-corruption/fraud strategist who could provide the way out of the management quagmire in the oil and gas industry. Findings show that inspite of the colossal expenditure on the refineries, they could arguably be said to be worse off today. It majorly recommends that the forensic accounting profession must be conscientiously promoted in the implementation of proposed oil sector reforms if Nigeria's petroleum-based economy, which for too long has been hamstrung by political instability, corruption and poor macroeconomic management, must be truly/substantially reformed for growth and development.

Keywords: Forensic Accounting, Management, Corruption, Oil, Refineries.

1.0 INTRODUCTION

Nigeria is believed to be the eighth-largest oil producer in the world, with huge untapped offshore oil deposits. However, despite its abundant energy reserves, oil has become something of a curse to the nation's populace, as the country today depends largely on importation of refined petroleum products. The petroleum sector is often singled out in Nigeria because of the very substantial economic rents and revenues oil and gas are capable of generating. An emphasis on petroleum is justified in Nigeria because it accounts for over 70 percent of revenues at all levels of government, 40 percent of GDP, and more than 85 percent of foreign exchange earnings (Nigeria Extractive Industry Transparency Initiative, n.d.)

It is a popular rumour that Nigeria exports vast amounts of crude oil while its refineries sit idle. The country imports petrol, and often, in time past, suffered shortages which created long queues at petrol stations. This was popularly attributed to the corruption of government officials. Nigeria's oil refineries are operating at a level way below capacity. Nigerian refineries, like most other refineries in Africa, are in need of modernization. Nigeria's refining capability has really been hampered by corrupt officials (Simpson, 2007). According to Egua (2009a), Nigeria is currently importing 85% of its petroleum product needs because of the appalling state of its refineries. This is a rather dysfunctional state of affairs.

The nation's daily petrol need is put at about 30 million litres per day and has been projected to hit 40 million in the next couple of years. In years back, the Obasanjo administration had between November 1999 to March 2003 expended $ 700 million on Turn Around Maintenance (TAM) of the refineries, thus frittering away billions in obviously haphazard TAM of the four refineries. Yet, in spite of this colossal expenditure, the refineries have remained moribund. Oil has become more of a curse in these past years rather than a blessing (Haruna, 2008).

The country has four oil refineries, eight oil companies and 750 independents all active in the marketing petroleum products. The sector has been bedeviled with the challenges of cross-border smuggling, frequent reports of large scale corruption in the distribution and marketing chain, political activity risk, civil unrest risk, border disputes, and government underfunding. Civil unrest has resulted in over 700 deaths since Obasanjo’s take over and resulted in the shut in of terminals and flow stations. The issue at the basis of most civil unrest is the equitable sharing of the country’s annual oil revenues among its population and the question of the environmental responsibilities of the oil multinationals. Hillier (2007) notes that the World Bank has estimated that, as a result of corruption, 80 percent of energy revenues benefit only 1 percent of the population in Nigeria. Corruption within the system has been a continuing one. All these have made investing in Nigeria very risky and unattractive (MBendi Information Services, 2008). It is against the aforementioned background that this paper chronicles management dilemma issues surrounding the Nigerian refineries, and related findings. It proposes, as way forward, a full/concerted embrace of forensic accounting knowledge and its practitioners as the cornerstone of this Nigeria's most significant sector.

2.0 MANAGEMENT CHALLENGES OF NIGERIAN OIL REFINERIES

Nigeria's refineries, with a name-plate capacity of refining 445,000 barrels per day of crude, were established about 30 years ago. But corruption, poor management, sabotage and lack of the mandatory turn around maintenance (TAM) every two years have made them inefficient, keeping their operation at about 40% of installed capacity, at best of times. A consequence of the failure of the refineries therefore, is the ceaselessly strangulating fuel price hikes, with the attendant effect on prices of goods, services as well as the country's economy in general. For instance, in the four and half years of the Obasanjo administration, Nigerians had to contend with several hikes in petroleum products. But as it is with all the other refineries, findings at the Kaduna Refining and Petrochemical Company (KRPC) showed that the major impediment to the successful operations of the Kaduna refinery are corruption, poor management, lack of TAM and their concomitant effects. The inability of the refineries to work in year 2007 cost the country an estimated $4 billion in importation of about 5 million tonnes of petroleum products. The refineries are in such poor conditions that unless a full rehabilitation is done, the result will be a continued breakdown of the system.

Although the refineries are all different and operate in different environments, they do face similar challenges. The refineries run at significantly less than their potential capacity. There is little or no incentive to be competitive. The main factors affecting the refineries ability to meet this goal are related to management, markets, logistics, efficiency, and environmental concerns. Refinery performance will improve if the management structure is changed to reward effective operation and penalize poor performance. Predicting future market demand is extremely difficult because of the significant political and economic uncertainty in volatile oil producing regions. This uncertainty makes long term planning difficult and potential upgrades or debottlenecking projects are hard to justify.

The refineries are located remote from the sources of international markets and suppliers of engineering and equipment. Cost effective procurement of the required crude is complicated by the need for small shipments which must be transported long distances. The high cost of shipping affects the refinery profitability and the shipping time affects operating flexibility. Maintenance and refinery upgrading are impacted by the fact that the engineering and construction ability in Nigeria is limited. Furthermore, almost all of the material and equipment needs to be imported. Regarding efficiency, refinery efficiency is made up of the actual operating efficiency while the unit is on-line and the percentage of time that the unit is operating. The existing refineries have low energy efficiency and high losses because they have not been upgraded or optimized and have not kept up with new developments and trends. The refinery designs are outdated and there is little integration between units. Personnel and operating costs are also high compared to capacity. For the environment, the refineries will have to pay attention to the quality and quantity of gaseous and liquid effluents as is currently happening in the upstream industry (Batzofin and Sterne, 2007).

The Federal Government (Obasanjo administration), apparently worried by the embarrassing failures of the refineries as well as the huge amounts spent on TAMs, resolved in April 2000 that all the four refineries be privatized. It however backtracked by voiding the sale of two of Nigeria's premier refineries and ditching the privatization programme. The government again reversed the voiding and it is now set for the sale of oil refineries to the private sector. The rethink must have been prompted by the continuing drain resources of government's involvement in the importation of refined products as well as the failure to keep the refineries at optimum production level. Due to the comatose state of the refineries, petroleum products are being imported into the country therefore prompting the Nigerian government to subsidize the cost to Nigerians.

The Nigerian government made the decision to sell the refineries in order to meet the objective of the new oil and gas policy which aims at refining and processing the entirety of the nation's crude oil and gas for the benefit of Nigerians viz the creation of employment, transfer technology, development, and additional revenue. The refineries, so far, have been run like other state owned enterprises with no commitment by the managers who allowed myriads of problem to set in. The problems of Nigeria's refineries are comparable to those of other public institutions such as Nigerian Telecommunications Limited (NITEL), NIPOST, Nigerian Ports, Power Holding Company of Nigeria etc. Inspite of the huge Nigerian state money invested in all these agencies, the prevailing mentality is that anything owned by the state is owned by nobody and the approach/attitude of running the state enterprises has clearly been a dismal failure. The refineries were bedeviled by political interference, undercapitalization, corruption within and outside the system, political and ethnic sentiments while considering appointments, lack of dedication and commitment on the part of those entrusted with the maintenance and survival of the refinery, feeder pipeline rupture, pipeline breaks and epileptic power supply, and managed by unskilled people who do not have the capacity to run them(Alexander's Gas and Oil Connections, 2004; Amanze-Nwachuku and Alike, 2008).

3.0 RESEARCH METHODOLOGY

This research adopts the secondary data methodology approach. The justification for this is owing to a number of reasons. Secondary data sources are sources that are based upon the data that was collected from the primary source. These secondary data information emanate from sources such as censuses, large surveys, and organizational records which are very fundamental to the subject of discussion in this paper (Wikipedia Foundation Inc., 2009). Yenza Website (2005) notes that surveys are expensive, labour-intensive, and it may not be possible to conduct surveys with samples large enough to generate valid and useful data. Secondary data allows analyses of social processes in what would otherwise be inaccessible settings, enables the researcher avoid problems with the data collection process, enables the possibility of facilitating a comparison with other data samples, and allows multiple sets of data to be combined.It is for these reasons that secondary data was found advisable and more appropriate for this research work.

4.0 FINDINGS

The nation's four oil refineries which have a nameplate capacity of 445,000 barrels per day (bpd) have never operated at full capacity. They would however only produce a fraction of the needs of the country, even if they did. As of February 2009, the 125,000 bpd Warri refinery was the only one of the four refineries currently in operation and it was running at 80 percent capacity. The previous sale of Kaduna and Port Harcourt refineries by the Obasanjo administration was reversed because the labour unions were against their dilution with private equities (Yaradua, 2008). Nigerian oil workers, under the aegis of

Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), and National Union of Petroleum and Natural Gas Employees (NUPENG), threatened to physically prevent the takeover of Kaduna and Port Harcourt refineries by their new owner, Blue Star Oil, aNigerianconsortium (Pambazuka News,2007). Nigeria ought to deregulate its energy sector to bring an end to the dependence on imported fuel that is a situation burdening government finances and stunting the downstream sector growth (Egua, 2009b). Deregulation means the government will no longer set fuel pump prices, giving private investors an incentive to take over the existing refineries or build new ones, thus potentially significantly expanding capacity. The government's fuel imports subsidy further fiscally burdens its finances, although this absorbs fluctuations in global energy prices which could otherwise have a negative impact on the sub-saharan Africa's second largest economy. Fuel price subsidy encourages smuggling and provides little commercial incentive for existing refineries to be maintained or improved. A subsidy regime is also simply not sustainable, therefore, leaving deregulation as the most viable and enduring option.

According to Onuorah (2009), a new financial regime has been designed for Nigeria's three refineries to enable them routinely carry out maintenance of the facilities without recourse to the Nigerian National Petroleum Corporation (NNPC). The new financial regime is one that is expected to enhance the process of Turn Around Maintenance (TAM), guarantee maximum efficiency of the refineries, and ensure regular availability of petroleum products in the country. The new governing culture is contrary to the former one which did not allow the managers of the three refineries in Warri, Port Harcourt and Kaduna, by the statues establishing them, to spend more than $50,000 for the maintenance of the plants without approval from the headquarters. This means the refineries can now run efficiently.

Nigeria could take a cue from lraq which used crime fighters to revive the Bayji refinery that was a critical asset in the nation's oil sector. The refinery had the production capacity of 290,000 barrels of oil per day but it was ridden with the corruption cancer of rampant theft, under cuttings, low/under production, broken down machines and meters, poor logistics, failure in load deliveries, and poor documentations (Fifield, 2009). With Nigeria's four state-owned refineries to be privatized, plans for several private oil refining projects are being developed. The federal government has issued 18 private refinery licences after opening up the country's downstream sector to local and foreign investors. Lagos, Akwa Ibom and Edo states have all shown ownership interests (The Goliath, 2003).

5.0 FORENSIC ACCOUNTING AS THE WAY FORWARD

Forensic accounting, sometimes called investigative accounting, is a worldwide heating up profession, which entails the application of accounting concepts and techniques to legal problems. It encompasses the process of auditing to recognize and investigate financial fraud occurring in an organization. Forensic accountants investigate and document financial fraud, white-collar crimes, corruption, wastes and mismanagement. There is a growing need among law enforcement professionals, government organizations, small business owners, and department managers to better understand basic forensic accounting principles, how different types of fraud occur, and how to investigate a fraud that is detected in a way that maximizes the chances of successful prosecution of the perpetrator (The Free Library, 2006). Forensic accounting is belonging to, used in or suitable to the court system or legal proceedings. The Forensic Accountant is a crime fighter and a value added accountant. He has knowledge and experience in: Financial Statements & Audit, Internal Controls and Operational Processes, Fraud Schemes, Investigation and Legal Elements of Fraud, and Psychology of the White Collar Criminal. He is skillful in handling typical business processes involving:

Purchasing, Receiving, Accounts Payable; Revenue, Shipping, Accounts Receivable; Payroll, Human Resources, Benefits; Production & Inventory (Raw Materials, Work-In-Progress, Finished Goods); Capital / Construction and Fixed Assets; as well as Reporting, Reconciliation, and General Ledger.

The forensic accountant is equally an expert in conflict resolution processes such as mediation, arbitration, litigation, and prosecution. He does case assessments using the methodical approach of : Initial Client Meeting / Consultation, Identification of Risks, Issues, Concerns & Suspicions, Weighing Benefits and Risks / Setting a Budget, Understanding of Processes and Controls, Financial Statement Trend Analysis, Financial Statement Ratio Analysis and Preparation of Work Plan that is refined throughout (Sawyer, 2008). Situations requiring forensic accounting include: Fraud Examination, Bankruptcy, Valuation, Due Diligence, (Lost) Profits Calculation, Contract Dispute, Domestic / Marital Dissolution, Stakeholder Disputes, Purchase Price Disputes (Post-Acquisition), and Intellectual Property. A forensic accountant is a risk manager, a deregulation/corporate governance technocrat, a maintenance driver, and an anti-corruption/fraud strategist who is proficient in the tasks involving Monitoring, Communication, Risk Assessment, Control Environment, and Control Activities. According to Ramaswamy (2005), the forensic accountant can create a leverage or alignment for an institution between corporate governance, internal control, and external reporting activities.

Nigeria's refineries sector is that which is most susceptible to fraud, corruption, vandalism, wastes, insecurity, sabotage, cartel blockade operations, political/ethnic sentiments, inefficiencies, lack of maintenance, under capacity utilization, fire, etc. Hundreds of thousands of incidents involving financial fraud occur each year because of poor or inadequate accounting and financial control and security. Forensic accountants are useful for investigating the privatizing of refineries which will lead to more effective operation. They are professionals at curbing thefts, bribery, poor internal controls and work processes. Their core values are integrity, objectivity, independence, and competence. As a matter of fact, the increasing interest in and the demand for improved corporate governance and accountability have created a unique and timely opportunity for accountants and their professional institutes to align their strategic vision with the emerging demands for effective oversight and forensic functions of corporate governance(TheGoliath,2007).

The forensic accountant, by virtue of his training and expertise is very qualified to bail out Nigerian refineries in areas such as: protection of the budget process (stabilize level of expenditure), exhaustibility of oil resources (planning for the future; fiscal sustainability), Intergenerational equity considerations, taking practical steps for improving oil revenue management, diversifying the economy, broadening the tax base for the government, discouraging white elephant projects, watching quality of capital spending, reforming public procurement procedures, designing and enforcing due process in operations (Due process has saved Nigeria several billions of Naira in the last 7 years), getting into a transparency pact like the Extractive Industries Transparency Initiative (EITI), as well as implementing enforcement and monitoring mechanisms. The forensic accountant is a detective who can conduct investigations and forward violations to the Attorney General for prosecution (Okogu, 2006). As a mediator, he can oversee dialogue tables for ensuring peace in the sector (e.g. Niger Delta which is a major challenge facing the oil industry today) and quickly resolve knotty industrial dispute issues. Conducting feasibility studies, implementing service delivery compact, addressing capacity gaps, addressing declining productivity, tackling ageing workforce issues, conducting recruitment exercises, and ensuring proper joint venture arrangements are all within his ambit to do. The forensic accountant is an advocate of transparency in fiscal policy, spending priorities, and revenue. Revenue transparency will act to increase accountability thus reducing opportunities for corruption and the potential for waste of funds. It is very critical that forensic accounting experts be engaged for the refinery business for economic management, budget decisions, forward planning, and improved access to finance and investment.

Forensic accountants' roles can involve detective work and even international intrigue. They have even played a major role in uncovering terrorist cells around the world. The field has also been defined as the practice of utilizing accounting, auditing and investigative skills to assist in legal matters. The forensic accountant conducts investigations to determine whether criminal offenses such as securities fraud, identity theft, employee theft or insurance fraud has occurred. Often times, forensic accountants quantify damages sustained by parties in legal matters where fraud is suspected. If a case goes to court, they may testify as an expert witness. Other reasons why the forensic accountant has become a great force to reckon with include: the need for emergence response (e.g. during the Hurricane Katrina hit) to investigate insurance claims and help piece together lost financial records, the fall of Enron and WorldCom, the 2002 passage of Sarbanes-Oxley, the changing legal environment that had led businesses to examine their activities more closely (there are also more mergers and acquisitions occurring), the credit crisis and economic slowdown, and the fields of fraud and litigation (The Ohio CPA Foundation, 2008).

6.0 CONCLUSION AND RECOMMENDATIONS

Nigeria, Africa's biggest oil producer and a country of 140 million people, is currently importing 85 percent of its petroleum product needs as a result of the shambolic state of its refineries. Despite being the world's eighth biggest oil exporter, its four state-owned refineries are plagued with frequent production problems that are largely due to mismanagement, vandalism, lack of maintenance, inadequate funding, and inefficiency, costing the nation several billions of dollars a year. Nigeria's refineries have been subject to years of operation with little regard to refinery economics and no development. These refineries are characterized by high losses, low efficiency and poor availability. The challenge is to improve and upgrade the refineries so that they do operate properly and become commercially viable. This research presents forensic accounting as the most viable way out of the quagmire of the Nigerian refineries mess. In view of the fact that forensic accounting is the practice of utilizing accounting, auditing and investigative skills to assist in legal matters, the following recommendations are being proffered for a revived and functional refinery system in Nigeria:

(A) Through a strong engagement/promotion of forensic accounting, the Nigerian state needs to: (i) exterminate the rot and challenges associated with the management/operations of these refineries and move towards world norms/international best practices that could lead to large improvements in profitability. (ii) encourage private participation (partnership with core investors) and remove fuel subsidy in the current refineries to allow the refineries some latitude in terms of the boards so that they can run like a business, and hopefully contribute to NNPC's profit (total deregulation) (iii) be sincerely committed to the fight against corruption, poor management, sabotage, cartel interests/manipulations, bureaucracy, political patronage/ethnic sentiments, and lack of the mandatory turn around maintenance (TAM) every two years (iv) improve refinery performance via a management structure that rewards effective operation, penalizes poor performance, guides against undercapitalization, and staves off political interference (v) enhance good planning (e.g. prediction of future market demand and improved maintenance practices) and justification of potential upgrades or debottlenecking projects by achieving significant political and economic certainty in volatile oil producing regions (vi) fully rehabilitate the refineries in keeping with modern trends and conduct their fair price valuations (vii) ensure transparency and cost effective procurement of the required crude (materials), equipment, personnel, finance and quality/ economy in award of contracts (viii) amicably reconcile differences amongst aggrieved stakeholders in the industry (ix)) strengthen the role and speed of the courts as an enforcement mechanism against vandals, saboteurs, and corruption culprits.

(B) In particular, forensic accountants, because they can make significant contributions as part of the governance structures with respect to reforms concerning the refineries/the oil sector, should be called upon to chart the way forward in different areas such as: (i) corporate governance (formulation and establishment of a comprehensive governance policy which ensures an appropriate mix of management and independent directors on the board), setting out the appropriate responsibilities of the board and the audit committees, and reinforcing ethical behaviour through code of ethics for employees and management (ii) helping to establish an efficient control system that encompasses a good control environment underlined by ethical behavior and strong corporate governance policies, a superior accounting system which reports all relevant transactions, and strong procedural controls that guarantees the safeguarding of assets, proper authorizations, audit mechanisms, and proper documentation, in order to prevent fraud/corruption (iii) creating, through policies, a positive work environment where employees are highly motivated and very responsible (iv) supporting the dissemination of the required information about governance and ethics policies to interested parties within and outside the refineries since adequate reporting is also necessary to meet the compliance requirements of the stakeholders and market economy. (v) ensuring vigilant oversight through monitoring compliance at the top levels of corporate power, management procedures and employee activity. (vi) initiating fraud deterrence by establishing consequences through an expectation of punishment. (vi) tidying up forensic investigation issues by ensuring the integrity of financial statements/production processes against fraud, vandalism/sabotage, areas of risk and associated fraud symptoms, pursuing each anomaly aggressively, and rooting for the minutest details of accounting and financial anomalies.

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