Corporate fraud, a forensic report and the public's right to know

The scandal:
Steinhoff, once a global retail giant, collapsed in 2017 after a massive accounting scandal. South African pension funds and other investors lost more than R200 billion. Auditing firm PricewaterhouseCoopers (PwC) compiled a forensic report, but Steinhoff refused to release it in full. Does the public have the right to access a confidential forensic report regarding corporate fraud at this multinational?

The legal battle:
- Media houses, including the Financial Mail and amaBhungane, used the Promotion of Access to Information Act (PAIA) to demand the release of the full Steinhoff forensic report
- Steinhoff claimed the report was legally privileged and confidential

What the court said:
- No litigation privilege as the report's focus was aimed at fixing the financials and not pending or contemplated litigation
- Privilege was waived – you can't release a public summary of a report and then hide the full version (you waive legal privilege if you disclose something)
- Public interest wins – the scale of fraud and public harm necessitated that the report had to be disclosed

Why you should know about this:
- You have a right to transparency, especially where public money is involved
- You can't hide behind legal excuses or privilege to cover up corruption
- Once a company tells part of a story, it can't hide the rest by claiming privilege
- Through PAIA, the media can help you access the truth (public interest can outweigh confidentiality)
- Letters of engagement need to state the purpose of the document, that is, whether such scope will be to obtain legal advice or for litigation purposes
- If you're a lawyer, note that the case provides for a change from the historical and more common several purpose test to the dominant purpose test

ALCHEMY