

**Report of Trevor White**  
**Chartered Accountant and Forensic Auditor**

**The State v Gaston Savoi and others**

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**A. AUTHOR'S DETAILS**

**1.000 Name**

1.001 Trevor Sean White.

**2.000 Personal details**

2.001 I am a male with identity number 6611245014087, 43 years old. I am a director of PricewaterhouseCoopers Advisory Services (Pty) Ltd, 102 Stephen Dlamini Road, Berea, Durban with telephone number (031) 2712000.

**3.000 Experience and qualifications**

3.001 I joined Price Waterhouse in 1989, and was admitted as a director of PricewaterhouseCoopers on 1 July 1998, following the merger of Price Waterhouse and Coopers and Lybrand. I am presently the director in charge of the KwaZulu-Natal Risk Advisory Services department, which incorporates the Forensic Investigations Department of PricewaterhouseCoopers in KwaZulu-Natal.

3.002 I have conducted numerous fraud investigations for both public and private sector clients and have given evidence in the South African High Court and the Regional Court and in the Lesotho High Court. I have also presented evidence to a Commission of Enquiry, the Commission for Conciliation, Mediation and Arbitration ("CCMA") and at various disciplinary hearings. I am trained in auditing techniques and hold a Bachelor of Commerce degree and Post Graduate Diploma in Accountancy from the former University of Natal Durban. I was also admitted as a member of the South African Institute of Chartered Accountants in 1992. I am a Certified Fraud Examiner, being admitted as a full member of the Association of the Certified Fraud Examiners, a Texas based organisation, in 1998. I have been involved in a number of business valuations and performance audits. My specialist field is Forensic Auditing and as such I have extensive experience in analysing, reviewing and verifying financial information and accounting records. I have also

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References in the margin refer to  
appendix numbers

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chaired three investigative Commissions of Enquiry into Fraud and Corruption in Swaziland.

**B. MANDATE AND ISSUES TO BE INVESTIGATED**

**4.000 Appointment**

**4.001** The terms of our appointment are detailed in our agreement which was signed by Mr Freeman Nomvalo of the Department of National Treasury (**National Treasury**), on 2 July 2010. The said Agreement relates to the investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN Department of Local Government and Traditional Affairs (**KZN LG & TA**) and the Northern Cape Department of Health (**the Northern Cape DOH**). This report covers the investigation into the Northern Cape DOH and the purchase of Wataka Water Purification Plants only; separate reports will be issued for the investigation conducted at the KZN LG & TA; the procurement of Oxyntaka Self-Generating Oxygen Plants by the Northern Cape DOH; and the purchase of Dialysis Machines by the Northern Cape DOH.

**4.002** The following represents the General Procedures performed:

1. Requested and received Basic Accounting System (**BAS**) reports for Intaka who received orders for the supply of Water Purification Systems and were paid by the Northern Cape DOH.
2. Obtained supporting payment vouchers.
3. In respect of the procurement procedures followed, obtained all relevant documents including quotations, applications to and approvals by the Provincial Tender Board and minutes of meetings.
4. Interviewed and obtained affidavits where necessary from officials involved in the procurement procedure and/or who were referred to in relevant correspondence.

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5. Determined whether any person involved in the procurement process or otherwise irregularly manipulated the procurement process to favour Intaka.
6. Visited and/or requested additional documentation and information from hospitals where the water purification plants had been delivered and/or commissioned.
7. Interviewed third parties and obtained affidavits and supporting documents where necessary and applicable, including Intaka staff whose names featured on documentation and electronic records between the Northern Cape DOH and/or officials, and Intaka.
8. Accompanied the SAPS investigating officer to Cape Town and reviewed the 356 lever arch files of documents seized from Intaka.
9. Reviewed the electronic data copied by the SAPS from computers seized from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
10. Examined bank accounts subpoenaed by the SAPS.
11. Assisted the SAPS investigating officer with interviewing any official or any person related to any official from the Northern Cape DOH, or any other third party that may have been involved in any irregular conduct or who received any irregular payments.
12. Examined additional documents seized by the SAPS from Intaka.

4.003 I am not required to and did not undertake an audit in terms of the International Standards on Auditing. The scope of my work was limited to a review of the documentary evidence made available to me and enquiries undertaken to address issues identified in the execution of the investigation undertaken. I have not verified the authenticity or validity of the records and documents provided to me, unless

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otherwise stated.

4.004 This report has been prepared solely for use in the criminal matter registered with the SAPS; Kimberley CAS 02/05/2010. It may also with the prior written consent of the Director of Public Prosecutions be used in any civil or disciplinary proceedings that the Northern Cape DOH may wish to initiate. It may not be suitable for any other purpose and it should not be used, reproduced or circulated for any other purpose without my prior written consent. It should be a condition of such consent, if given, that PricewaterhouseCoopers and myself accept no responsibility to that third party and that such third party will hold PricewaterhouseCoopers and myself harmless in respect of any consequences of such disclosure. Whether or not I have given consent, PricewaterhouseCoopers and myself will not accept liability or responsibility to any other party who may gain access to this report.

4.005 I have included information relevant to the investigation and related circumstances but cannot conclude on the completeness of such information as the possibility exists that not all-relevant information and documentation was made available to me. Any documentation or information brought to my attention subsequent to the date of this report, which will affect the findings detailed herein, will require my findings to be adjusted and qualified accordingly.

1.006 This report contains hearsay evidence based on interviews conducted with individuals. I deem the aforementioned evidence to be appropriate to sketch the full picture of the allegations raised.

**5.000 Background**

5.001 During the course of an investigation conducted by PwC in the KZN Department of Health into allegations of tender and procurement irregularities for which undue payments were allegedly made and other financial irregularities, we received information and it was alleged that Intaka Investments (Pty) Ltd (Intaka) had received an order for the supply of water purification systems to the Department of Health KwaZulu- Natal (KZN Health) and that a corrupt payment was made to an official.

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We investigated this matter relying solely on the documentation in possession of KZN Health and interviews and information obtained from officials of the said Department. At this stage we were informed that Intaka was the subject of a criminal investigation and when we attempted to interview an employee of Intaka we were advised by their Legal Advisor that we were required to address all correspondence through him. Hence, we did not have access to Intaka's records or their employees who may have been involved in the provision of the water purification systems (plants). We were subsequently informed that the SAPS had conducted a search of Intaka's premises and had seized documentation. We initially did not have access to these records.

- 5.002 Following the said investigation we issued our report dated 30 November 2009, that included the investigation and findings at that date in respect of the supply of water purification systems to KZN Health by Intaka.
- 5.003 We were thereafter on 9 February 2010 mandated to extend our forensic investigation into the awarding of a contract for Oxyntaka self- generating oxygen plants to Intaka and to assist the SAPS with the review of the documents and computers seized from Intaka. We have completed the said investigation; and we issued a report in this regard dated 24 May 2010.
- 5.004 On 4 May 2010 we were appointed by National Treasury to conduct a preliminary investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN LG & TA and the Northern Cape DOH. The purpose thereof was to obtain sufficient evidence and information in order to prepare an affidavit for purposes of a restraint order by the Asset Forfeiture Unit (AFU) for Intaka and other identified parties. Our mandate was further extended on 2 July 2010 as previously referred to in paragraph 4.001 of this report.
- 5.005 My findings into the investigation conducted at the Northern Cape DOH and the procurement of Wataka water purification plants are detailed below.

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**6.000 Issues addressed in my investigation**

6.001 This report focuses on orders awarded to Intaka for Wataka water purification plants.

6.002 The report further summarises the Procurement Procedures followed during the awarding of the orders in question, where these have been contravened and where collusion has taken place between the Northern Cape DOH Officials, suppliers and other third parties.

**C. BASIS OF INVESTIGATION**

**7.000 Execution of fieldwork and gathering of information**

7.001 Members of my staff have assisted me in the execution of fieldwork and gathering of information necessary to compile this report, however, where an opinion is expressed in this report it is my own opinion.

**8.000 Sources documents**

8.001 The information dealt with in this report was obtained from the sources listed below:

- i) Supporting procurement documentation handed to us by the Department.
- ii) Kreditinform Enquiries.
- iii) BAS reports.
- iv) Persal reports.
- v) Interviews conducted with Management and staff at the Northern Cape DOH.
- vi) Information received from third parties.
- vii) Interviews conducted with third parties.
- viii) Documents seized by the SAPS from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
- ix) Electronic records seized by the SAPS from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
- x) An affidavit provided by Dr Savoi of Intaka to the SAPS.

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xi) Bank records subpoenaed by the SAPS.

**D. DETAILED PROCEDURES AND FINDINGS**

9.000 Prior to discussing the investigations into the water purification plants I deem it necessary to refer to the relevant procurement policy and procedures in place at the Northern Cape DOH at the time the purchases were made. The detailed procedures and my key findings are addressed thereafter for the investigations conducted into the purchase of ten (10) x water purification plants by the Northern Cape DOH from Intaka.

**Code of Conduct for Supply Chain Management Practitioners: Practice Note Number 4 of 2003**

**A1**

9.001 The aforementioned Practice Note number 4 of 2003 was issued by National Treasury to amongst others all National and Provincial Departments, CFO's and CEO's on 5 December 2003. Further, it is applicable to all officials and other role players involved in supply chain management (SCM). The entire document is relevant however, I wish to refer to the General Principles:

**A1/1-3**

- 1) The Government of South Africa commits itself to a policy of fair dealing and integrity in the conducting of its business. The position of a SCM practitioner is, therefore, a position of trust, implying a duty to act in the public interest. Practitioners should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or supplier/ contractor for themselves, their family or their friends.
- 2) Practitioners should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and regulations including the Public Service Regulations issued by the Department of Public Service and Administration, National Treasury Regulations and Practice Notes and directives issued by accounting officers/ authorities. They should ensure that public resources are administered responsibly.

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- 3) Practitioners should be fair and impartial in the performance of their functions. They should at no time afford any undue of preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority invested in them.
- 4) Practitioners should comply with the Code of Conduct for the Public Service as contained in Chapter 2 of the Public Service Regulations, 2001 especially items C4.5 to C4.12 and C5.3 to C5.4 thereof. I attach Chapter 2 of the Public Service Regulations, Code of Conduct for the Public Service hereto for ease of reference.

**A1/4-8**

**Supply Chain Management: Threshold values for the procurement of goods and services by means of petty cash, verbal/ written price quotations and competitive bids: Practice note number SCM 2 of 2005 and Treasury Practice Note 8 of 2007/2008**

9.002 The aforementioned Practice Note number 2 of 2005 was issued by National Treasury to amongst others all National and Provincial Departments, CFO's and CEO's on 10 May 2005. The document sets out the threshold values when procuring goods or services, hiring or letting anything, acquiring or granting any right or disposing of movable state property. I wish to refer to relevant sections in respect of the procurement of goods or services above the value of R200,000 (vat included):

**A2**

- 1) Accounting officers/ authorities should invite competitive bids for all procurement above R200,000.
- 2) Competitive bids should be advertised in at least the Government Tender Bulletin and in other appropriate media should an accounting officer/ authority deem it necessary to ensure greater exposure to potential bidders.
- 3) Should in be impractical to invite competitive bids for specific procurement e.g. in urgent or emergency cases or in cases of a sole supplier, the accounting officer/ authority may procure the required goods or services, in accordance with Treasury Regulation 16A 6.4 by other means, such as price quotations or negotiations. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer/ authority or his/ her delegate.

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9.003 The aforementioned Practice note SCM 2 of 2005 was repealed with effect from 1 December 2007 and replaced with Treasury Practice Note number 8 of 2007/2008. **A3**  
The relevance is that the threshold for inviting competitive bids was increased from R200,000 to R500,000. I further attach Treasury Regulation 16A for ease of reference. **A4**

9.004 I wish to mention further that the Northern Cape DOH implemented a Provincial Supply Chain Management (SCM) Policy effective 5 April 2006. However, the procurement of the water purifications plants in 2005 and 2006 to be discussed in this report was not dealt with in terms of the said policy. The Department applied to the Provincial Tender Board for deviation from the tender procedures; the calling for competitive bids SCM 2 of 2005 and SCM 8 of 2007/2008, when the water purification plants were procured. The said Provincial Tender Board was dissolved in June 2006 after it had approved the deviations in question. I do not deem it necessary to attach the aforementioned Provincial Supply Chain Management (SCM) Policy as it was not applicable to the water purification plants.

**Background: Affidavit of Dr Gaston Savoi**

9.005 I attach hereto for ease of reference an affidavit of Dr Gaston Savoi's (Dr Savoi or Savoi) signed and dated 21 August 2008. The affidavit deals primarily with a donation paid by Intaka in February 2007 and two commission payments made in August 2007 that relate to Intaka's business transactions with the KZN Department of Health and KZN Department of LG & TA respectively. The affidavit refers to how he and Intaka were introduced to the KZN Provincial Government; however it does not refer to the Northern Cape Province or business transacted with the Northern Cape DOH. **B1**

**Intaka Investments (Pty) Ltd**

9.006 I determined when investigating an order awarded to Intaka by the KZN Department of Health for the supply of 2 water purification plants, that the registration number recorded on the footer of their quotation dated 2 October 2006 is 2003/021018/07,

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attached hereto for ease of reference. A Kreditinform enquiry determined that said registration number belongs to Intaka Holdings (Pty) Ltd. The said entity was previously known as Intaka Tech (Pty) Ltd and was first registered on 28/08/2003. The holding company is recorded as "Savoi Family Trust". The Active Principals are Dr G Savoi id 521226 0000 000 appointed on 28/08/2003 and Mr R Savoi id 810212 5000 000 appointed on 21/11/2007. In terms of the footer of the quotation the other 2 directors as at 2 October 2006 were Fernando Praderi and Clement Morris. In terms of the Kreditinform Report these 2 persons resigned as Directors, however the date of resignation is not reflected. It would appear that the entity with registration number 2003/021018/07 was known as Intaka Investments (Pty) Ltd at the date of the quotation and subsequent thereto changed its name to Intaka Tech (Pty) Ltd and then Intaka Holdings (Pty) Ltd.

B2/1-3

B3

**Intaka Northern Cape**

9.007 I determined that the first 2 water purification plants purchased by the Northern Cape DOH, to be discussed later in this report, were awarded to an entity known as Intaka Northern Cape. A Kreditinform Enquiry determined that Intaka Northern Cape (Pty) Ltd with registration number 2005/006456/07 was previously known as Tarree Investments and was registered on 2 March 2005. The Directors appointed effective 2 March 2005 and who are still active principals are: John Fikile Block (John Block) id 680210 5802 089 and Gaston Savoi id 521226 0000 000. The current status of this entity is recorded as de-registered.

B4

Handwritten marks: a checkmark and the letter 'M'.



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**THE PURCHASE OF TEN (10) X WATER PURIFICATION PLANTS FROM INTAKA**

**Orders awarded to Intaka and payments made by the Northern Cape DOH**

9.008 I requested a list of BAS payments made by the Northern Cape DOH to Intaka and identified payments made for the purchase of water purification plants; I was informed that the Northern Cape DOH had purchased 10 water purification plants from Intaka. I identified ten (10) x payments made during the period 1 September 2005 to 7 December 2006 amounting to R42,351,240.00 as summarised hereunder:

C1

|    | Invoice # | Payment date | Payment amount ( R ) |
|----|-----------|--------------|----------------------|
| 1  | 10015     | 01/09/2005   | 2,015,520            |
| 2  | 10014     | 01/09/2005   | 1,935,720            |
| 3  | 54        | 01/08/2006   | 4,800,000            |
| 4  | 55        | 10/08/2006   | 4,800,000            |
| 5  | 56        | 17/08/2006   | 4,800,000            |
| 6  | 85        | 15/09/2006   | 4,800,000            |
| 7  | 86        | 27/09/2006   | 4,800,000            |
| 8  | 87        | 02/10/2006   | 4,800,000            |
| 9  | 83        | 16/10/2006   | 4,800,000            |
| 10 | 84        | 07/12/2006   | 4,800,000            |
|    |           |              | <b>42,351,240</b>    |

C2

C3

C4

C5

C6

C7

C8

C9

9.009 I have been provided with payment vouchers by the Northern Cape DOH for eight (8) of the ten (10) plants purchased. I have been informed that the payment vouchers for the first two payment reflected as payments for invoice numbers 10015 and 10014 above cannot be traced in the archived records (the payments were made approximately 5 years ago). I will discuss the payments in more detail later in this report, particularly those officials involved in the payment procedures. I have however determined from examination of the invoices referred to in the above table, that the water purification plants were delivered to the hospitals detailed below:

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|   | Invoice # | Hospital            |
|---|-----------|---------------------|
| 1 | 54        | De Aar              |
| 2 | 55        | Kimberley           |
| 3 | 56        | Kuruman             |
| 4 | 85        | Barkly West         |
| 5 | 86        | Postmasburg         |
| 6 | 87        | Gordonia (Upington) |
| 7 | 83        | Galeshewe           |
| 8 | 84        | West End            |

C2/4

C3/4

C4/4

C5/4

C6/4

C7/4

C8/4

C9/4

**Background into obtaining all relevant documentation from the Department and from the SAPS**

- 9.010 We initially received and examined documents from the SAPS in the Western Cape under "Project X Cross Ref 26/102/2 (17)" being hard copy and electronic records, after they conducted a search of Intaka's premises. We thereafter received and examined documents seized by the SAPS in the Northern Cape, being hard copy and electronic records, after they conducted searches at various business entities and suspected persons premises in the Northern Cape. We then requested all relevant procurement documentation and other official records from the Northern Cape Department of Health relating to the water purification plants. In addition to this we obtained documents and records from: the office of the Secretariat of the ex-Northern Cape Provincial Tender Board; a report prepared by the Auditor General; third parties interviewed by SAPS and us during the investigation phase; bank records subpoenaed by the SAPS; and records from the office of the Registrar of Companies and Close Corporations. In addition the SAPS performed a further search of Intaka's premises on 25 August 2010 and seized additional documents that were examined by me.

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**Detailed investigation into all documents received and interviews conducted**

9.011 We received a number of documents from the said sources and compiled a comprehensive list, in order to obtain a clear understanding of the sequence of events in terms of the documents. I deem it necessary to briefly refer to each relevant document and the content of each where applicable. All documents discussed hereunder were obtained from the sources listed above, unless otherwise stated.

**1. The purchase of 2 water purification plants from Intaka**

1) **Letter from the Office of the Deputy Director General, Kimberley Hospital Complex dated 17 June 2005 to Ms P Potgieter, Office of the Provincial Tender Board** D1

9.012 On 17 June 2005 the Office of the Deputy Director General, Kimberley Hospital Complex sent a letter to Ms P Potgieter (**Potgieter**), Office of the Northern Cape Provincial Tender Board (**the Provincial Tender Board**). The letter contains the name **Mr S Mitha (Mitha)** in the enquiries section on the top left of page 1 and his phone number and fax number. The letter is titled "Deviation of Tender- Water Purification Plants". D1/1-3

9.013 The writer sets out the purpose and refers to two completed revitalized projects completed at Colesberg and Calvinia hospitals. He also refers to recent outbreaks of diarrhea in various communities throughout the Province that have raised concerns about the quality of water supplied by the municipalities. He adds that bed occupancy rates have increased resulting in an increase in hospital expenditure and that an installation of a water purification plant will eliminate the poisoning of water fed to patients who are vulnerable to many strains of bacteria. D1/1

9.014 There are no reports or other documentation that reflects on the outbreaks of diarrhea and that it is linked to the quality of water supplied by municipalities. There is further no evidence that tests were carried out on water supply and it was deemed to "poisoned" or unfit for human consumption. There is further no evidence that Mitha

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was qualified to make such a statement or how he reached these conclusions.

9.015 Mitha then on page 2 of the document lists the advantages of a water purification plant. I am unable to determine where he obtained this information from. He states the following: D1/2

"The Department has received three quotes namely:

1. High- Tech Packaging R3,445,000
2. Forgeweld Stainless R3,190,700
3. Intaka Northern Cape R2,015,520"

The following handwritten notes then appear: "(Colesberg) next to the amount R2,015,520; "R1,935,720 (Calvinia) = Av= R1,975,620". He added that the above are quoted for one unit and these revitalized projects will be funded by the Hospital Revitalization grant.

9.016 There is no evidence that the specifications were determined prior to the said suppliers being requested to quote, how the suppliers were identified and who requested them to submit quotations. However, I identified the following document amongst those seized by the SAPS at the premises of John Block, 10 Golden Gate Street, Cartes Glen, Kimberley related to Intaka Northern Cape:

- 1) On 2 March 2005 the minutes of an inaugural meeting of Tarree Investments (Pty) Ltd was held. In terms thereof Gaston Savoi, John Heinrich Cerff and John Fekile Block were appointed directors of the company. E1

I further identified the following document in the electronic records seized by the SAPS from Intaka:

- 2) On 9 March 2005 Gaston Savoi's name appears on a document titled "Ref: Oxyntaka- Wataka" addressed to John Block. The content refers to an introductory meeting between Gaston Savoi, John Block, Hamid Shabbir and Deon Madyo on 7 March (assumed to be 2005, based on the date of the document). E2

9.017 Mitha concluded by recommending "Intaka Investment" as opposed to "Intaka Northern Cape" who submitted the quotation, as they are the lowest quoted price for the above project. The letter has been signed by the following officials approving the D1/3

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recommendation:

- 1) Mr D Gaborone (**Gaborone**), Chairperson Departmental Tender Committee on 20 June 2005;
- 2) Mr DD Madyo (**Madyo**), Head of Department on 20 June 2005; and
- 3) Ms ES Selao (**Selao**), MEC for Health on 21 June 2005.

**2. Interviews with Northern Cape DOH Technical Officials**

9.018 Interviews were conducted with Mr Vincent Halvey (**Halvey**), Manager Mechanical Engineering, Northern Cape DOH and Mr Clifton Saltwater (**Saltwater**), Senior Artisan Superintendent Technical Support Services, Kimberley Hospital. At the time Halvey was Deputy Director, Head of Engineering and Clinical Support Services and Saltwater reported to him.

9.019 Halvey stated he was instructed by Shabbir who was CEO of Kimberley Hospital, after the plants had already been procured, to commission the plants. Halvey then passed this responsibility onto Saltwater, and hence was not involved in the commissioning phase. Halvey stated further that the specifications for the water plants was a "thumb suck" as the Engineering and Clinical Support was not involved in any needs analysis or the drafting of specifications. Halvey provided an affidavit that included his involvement in the water purification plants and the Oxyntaka oxygen plants.

F9

9.020 Saltwater stated that he was not involved in the first 2 plants for Colesberg and Calvinia respectively. He was further not consulted nor did he provide input into the specifications for the plants, prior to the 8 additional plants being procured. He was first introduced to Intaka by Shabbir prior to the 8 plants being commissioned. As a technical person his main purpose was to identify the sites at the various hospitals where the plants had to be installed and commissioned. He did so, although he was not part of the commissioning itself as this was Intaka's responsibility and they also provided training to the hospital staff responsible for the plants.

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- 9.021 He added that there was a problem at Barkly West, as they were busy building a new hospital (Professor ZK Matthews Hospital) in Barkly West; he was concerned as Intaka installed the plant at the old hospital site (Barkly West) and there would be no use for it in the future. Halvey allegedly told him that the department had already paid for the plant and that they could always move it to the new hospital. He added that the plant was installed at the old hospital and it has never been used. I confirmed this to be the case when I visited Barkly West and Professor ZK Matthews hospitals on 6 October 2010. I attach hereto photographs taken during my site visit. Saltwater added further that only 3 of the 10 plants are currently operational due to problems encountered with the plants; being lack of water that resulted in there not being a continuous supply of water to be purified and power related problems, as summarised in the table below:

J5

|    | Hospital            | Status          |
|----|---------------------|-----------------|
| 1  | Colesberg           | Operational     |
| 2  | Calvinia            | Operational     |
| 3  | Kuruman             | Operational     |
| 4  | Barkly West         | Not operational |
| 5  | De Aar              | Not operational |
| 6  | Galeshewe day       | Not operational |
| 7  | Kimberley           | Not operational |
| 8  | Postmasburg         | Not operational |
| 9  | Gordonia (Upington) | Not operational |
| 10 | West End            | Not operational |

- 9.022 Saltwater provided an affidavit detailing his involvement in the water purification plants, which was post procurement.

F10

**2) Quotations for High Tech Packaging (Pty) Ltd, Forgeweld Stainless (Pty) Ltd and Intaka Northern Cape**

D2-D4

- 9.023 Attached to the said letter dated 17 June 2005 are the quotations referred to by Mitha above and discussed in more detail hereunder.

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- 9.024 The High- Tech Packaging (Pty) Ltd (**High- Tech Packaging**) quotation is dated 23 May 2005 and is addressed to "Department of Health, Northern Cape Provincial Government". It is titled "*40,000lt Capacity Water Treatment Plants*". The price quoted is R3,445,000 each. Based on my investigation conducted at the KZN Department of Health I suspected this quotation was false: the entity is a packaging business by it's very name; the quotation is vague; it is not addressed to anybody in particular which is strange taking into account that the amount quoted is substantial to any businessman; and the alleged author "Charles Marsden's" position and contact details has not been provided despite him concluding that they "*look forward to discuss the process in more detail at your earliest convenience*". **D2/1-2**
- 9.025 The footer of the quotation contains the addresses and contact details of High- Tech Packaging and the names of the Directors. We initially contacted Mr Aldert Kotze (**Kotze**), one of the listed Directors by telephone and followed this up with a fax request to him. I determined the following from Kotze:
- 1) He had no knowledge at all of the quotation in question;
  - 2) Charles Marsden was not employed by High- Tech Packaging at any stage on or before 23 May 2005;
  - 3) High- Tech Packaging operates mainly in the packaging industry with clients such as SAB Miller;
  - 4) They have not supplied any quotations to the Northern Cape DOH particularly in 2005.
- 9.026 Kotze was interviewed and he provided an affidavit confirming the above. He concluded that the High- Tech Packaging quotation is fraudulent. **F1**
- 9.027 The Forgeweld Stainless (Pty) Ltd (**Forgeweld Stainless**) quotation is dated 15 April 2005 (at least a month prior to the date of the High- Tech Packaging quotation) and is also addressed to "Department of Health, Northern Cape Provincial Government". It is titled "*Tender Price for Two 37m<sup>3</sup> Capacity Water Treatment Plants*". The price quoted for manufacture is R3,190,700 each. Based on my investigation conducted at the KZN Department of Health I suspected this quotation was false: another entity based in the Western Cape; the name would indicate they were suppliers of stainless **D3/1-4**
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steel rather than water purification plants; it was also not addressed to anybody in particular at Northern Cape DOH; and although it contained more detail than that provided in the High- Tech Packaging quotation it looked similar to the fraudulent quotations provided in the KZN Health investigation. It appears to have been signed by "TP Kubheka". The Directors are listed in the footer as B Carter and P Booysen.

9.028 I received another Forgeweld Stainless quotation that will be discussed later in this report, prior to receiving the one under discussion and I had determined from Mr Tony Gerrans (**Gerrans**), the Managing Director of an entity in the Western Cape, known as Grotto Manufacturing (Pty) Ltd (**Grotto**), that the first mentioned quotation was fraudulent. I also had prior dealings with Gerrans during the KZN Department of Health investigations. I attach hereto an affidavit provided by Gerrans during the course of the said investigation as it sets out Grotto's relationship with Intaka, Ansano Romani a former Grotto employee and other entities implicated in the KZN Department of Health investigation, summarised hereunder for convenience sake: F2

- 1) Grotto was commissioned by Intaka to build 30 complete 'Wataka' water purification units. These plants were completed by the end of 2006. The first two plants were (unilaterally) discounted by some 50% by a Romani (now employed by Imvusa), ostensibly as Grotto's contribution to developing this new product. Subsequent plants were sold to Intaka for between R412,000 and R475,000, the price variance being the result of fluctuating steel prices and some specification changes relating to the control system of the plants.
- 2) He was unable make a 100% identification of the plants at Rietvlei and Appelsbosch Hospitals after we sent them photographs obtained by my managers when they visited the hospitals. Gerrans added that the plants are otherwise identical to what Grotto supplied to Intaka. He concluded that the plants cost between R412,000 and R475,000 and an additional approximately R250,000 for transport and commissioning. Hence, Grotto's price for one water purification plant would have been a maximum of R725,000.

9.029 Gerrans was requested to comment on the quotation for the Northern Cape dated 15 April 2005 and alleged to have been signed by TP Kubheka. I determined the

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following from Gerrans:

- 1) TP Kubheka was never employed by Forgeweld Stainless. He only joined Grotto Defrancheshci in 2000, after operations at Forgeweld Stainless had been discontinued;
- 2) The water plant business was managed by a Mr Ansano Romani (Romani), who I will discuss later in this report, and Kubheka had no reason to submit tenders for water plants;
- 3) Kubheka resigned from Grotto on 1 July 2004 and hence was not employed within the Forgeweld Group on 15 April 2005 being the date of the quotation;
- 4) The said date co-insides with the date of commencement of Romani's dealing on behalf of Grotto with Intaka;
- 5) The physical address recorded on the quotation is that of Grotto where Romani was employed, and Forgeweld Stainless was at all times operated out of a separate address in Parow;
- 6) The Forgeweld Stainless logo is absent on the quotation;
- 7) The Directors Carter and Booysen were unknown to him and the group had never to his knowledge employed directors with these names;
- 8) Romani was the Managing Director of Forgeweld Stainless until the time it ceased manufacturing operations in early 2000;
- 9) The level of specification and the cost of the equipment as detailed in the quotation, was inconsistent with his knowledge of the equipment and Grotto's history of building this equipment for Intaka;
- 10) The quotation states that the plants will be built and assembled in a factory owned or managed by Forgeweld Stainless; this would have been impossible, as Forgeweld Stainless ceased manufacturing operations in early 2000.

9.030 Gerrans provided an affidavit confirming the above and it is evident that the Forgeweld Stainless quotation is fraudulent.

F3

9.031 The contact details of Tebogo Philip Kubheka (TP Kubheka) were obtained from Gerrans. He confirmed what Gerrans had stated in so far as his employment with Grotto was concerned, the time frames and that he was never employed by

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Forgeweld Stainless. He further stated that he had no knowledge of the quotation in question and that it was not his signature or initials appearing on the document. He added that he had at no stage received or responded to an enquiry from the Department of Health, Northern Cape Provincial Administration and he did not do any business with the said Department. He concluded that the Forgeweld Stainless quotation was fraudulent. An affidavit was provided by Kubheka confirming the above.

F4

- 9.032 Intaka Northern Cape provided 2 documents purporting to be quotations, but that appear in the format of an invoice, but titled "Sales Order". Both documents are on an Intaka Northern Cape letterhead, however the address and phone numbers are in Cape Town. This is the same address, phone number and fax number as recorded on the Intaka Investments quotation provided to the KZN Department of Health previously referred to by me. The 2 quotations are dated what I interpret to be 12 April 2005 (which is consistent with the dates of the quotations for High- Tech Packaging and Forgeweld Stainless) and are addressed to Mr Dion Madyo. They have quoted an amount of R2,015,520 for 1 x Wataka Unit Model 50 for Colesberg Hospital and R1,935,720 for 1 x Wataka Unit Model 50 for Calvinia Hospital. The quotations contain 2 signatures:
- 1) The 1<sup>st</sup> is similar to the signature of Dr Savoi as recorded on his affidavit previously referred to;
- 2) The 2<sup>nd</sup> is similar to the signature of Dr Hamid Shabbir as recorded on a Northern Cape DOH, Creditors Payment Advice, as the official who authorised the expenditure.

D4/1-2

B2/2

D4/1-2

B1/12

C2/1

- 9.033 I identified the following e-mails in the electronic data seized by the SAPS from Intaka, from the computer of Alicia Marcos (Marcos) the personal assistant to Dr Savoi, relevant to the above quotations of Intaka Northern Cape:

- 1) On 26 April 2005 at 12:58 from John Block to Marcos titled: "Visit to De Arar, Colberg and Calvinia". He included the following: *"I could not respond as I was out of town. Our meeting in De Aar will start at 11h00 and thereafter we can move to Colesberg and return to De Aar for their trip to Calvinia. I have made all the*

J1/1

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*arrangements with the Head of Department of Health. I will be in De Aar on Thursday to receive Dr Savoi. Please inform him that the best landing place is at the Military base in De Aar". He was replying to an e-mail from Marcos dated 25 April 2005 05:34pm.*

- 2) On 9 May 2005 at 06:29pm from John Block to Marcos titled: "Follow up to our discussions". He included the following: *"I have followed up with the gentleman from the hospital and they will give me a firm response by the end of the week. This has to do with the Wataka purchasing orders".* J1/2

- 3) On 10 May 2005 at 05:01 pm from Dr Savoi to John (Block) titled: "WATAKA/OXYNTAKA. Dear John please let us know if you can reply and send us the purchase orders for the Wataka's before you go to Botswana on Thursday". This e-mail was included as part of an e-mail dated 6 June 2005 to be discussed in sub- paragraph 7) below. J1/8

- 4) On 12 May 2005 at 12:04pm from Dr Savoi to John (Block) titled: "Watakas-Oxyntakas". J1/3

1. *"WATAKA Following your telephone conversation with Mr Fernando Praderi, I understand that we can proceed as per your guidance invoicing 1 Wataka to Calvinia and 1 Wataka to Coleberg, according to the sales orders dated 12<sup>th</sup> April, 2005, dully signed by the client. Please confirm by return that we can proceed accordingly, informing the details to issue the invoices. On the other hand, we are still waiting for the formal purchase orders from Calvinia and Colesberg. When we will receive them?"*

For purposes of this report I will not repeat point 2 of the e-mail titled "OXYNTAKA" as this will be included in separate report. The above e-mail indicates that the client had signed the orders for Colesberg and Calvinia. The quotations discussed above have as stated been signed by what appears to be the signature of Dr Savoi and Dr Hamid Shabbir. I located a hard copy of the quotation that appears to be a Sales Order in the records seized by the SAPS from Intaka that has been signed by what appears to be the signatures of the aforementioned persons. Thus, the 2 orders were signed by Shabbir prior to the matter going through the required procurement procedure i.e. subject to a formal bid process. J1/4

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- 5) On 20 May 2005 at 07:43pm from John Block to Dr Savoi titled: "Progress Report on Northern Cape". He included the following: *"Dear Fernando I am sorry that I could not respond to the various mail that I received. I have been informed that both Dr Shabir and the head of the department of health, Mr Dion Madyo are in the USA and will only return on the 23<sup>rd</sup> May 2005. I will suggest that we await their return to finalise the purchasing orders and the site visits to Kimberley and Upington hospitals respectively. The gentleman that did not respond to the messages was given the task to handle the close tender and receive our invoice. I presume he acted strange because of attitude problems some state officials have when their seniors are not around. I will follow this matter up with his seniors"*. Hence, this appears to be an arrangement between John Block, Dr Savoi, Madyo and Shabbir that the matter would be subject to a closed tender (Mitha's Submission to the Tender Board is dated 17 June 2005). J1/5
- 6) On 3 June 2005 at 06:49pm from John Block to Dr Savoi titled: "8<sup>th</sup> June site visits". He included the following: "It is my pleasure to report on the following matters. J1/6
1. Purchasing orders for the watakas Colesberg and Calvinia. The Tender board has given permission for a closed tender. They need to get at least invoices/quotations to make a final decision. We need two more from other companies to arrive at a decision. I am awaiting the other two by courier on Monday.
  2. We are visiting Upington and Kimberley on Wednesday 8<sup>th</sup> June. I propose we start in Upington and pick up the water samples from Namaqualand and do the site visit for the Oxyntaka.
  3. We then come to Kimberley for the site visit and pick up the water samples from De Aar. We should then also visit another site in Kimberley and collect a water sample.
- Hence, this appears to be an agreement that 2 other quotations would be obtained by Dr Savoi and couriered to John Block. In addition they were already planning on providing water purification plants to Upington, Kimberley and De Aar.
- 7) On 6 June 2005 at 10:45 pm a reply from Dr Savoi to John Block titled "8<sup>th</sup> June site visits". He included the following: *"I acknowledge receipt with many thanks of your report email and I comment as follows:* J1/7



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1. *We are sending today by courier to your personal address the original offers from 2 other companies for 2 water treatment plants each, in order to conclude the closed tender*. Hence, collusion between Dr Savoi and John Block in the submission of 2 fraudulent quotations.

8) On 7 June 2005 at 09:01 am from John Block to Dr Savoi relates to finalising the site visits of 8<sup>th</sup> June. J1/9-10

9.034 The SAPS seized further documents from Intaka on 25 August 2010. Included were photocopies of the following documents attached to one another consisting of 8 pages:

- 1) A letter on an Intaka letterhead dated 6 June 2005 addressed to "Dear Mr Block Hereby I am enclosing the letters with the quotations for the water purification plants" from Carina Romanello, Secretary; The address is the same as that belonging to John Block that was the subject of a search by the SAPS in Kimberley. This confirms the e-mail discussed in sub- paragraph 7) above. J2/1
- 2) The fraudulent Forgeweld Stainless quotation purported to have been signed by TP Kubheka; J2/2-5
- 3) The fraudulent High- Tech Packaging quotation purported to have been signed by Charles Marsden; J2/6-7
- 4) A "Courier It" waybill number 1552349 reflecting a package from Intaka to John Block, at 10 Golden Gate, Carters Glen, Kimberley. J2/8

9.035 Hence, Intaka sent the 2 fraudulent quotations to John Block on 6 June 2005. Mitha referred to these 2 quotations to his Submission dated 17 June 2005 to the Provincial Tender Board.

9.036 On 23 June 2005 the Provincial Tender Board sent a letter to Intaka Northern Cape, in Cape Town, for the attention of Mr N Praderi fax 021- 7022260. I am not aware of a Mr N Praderi being employed by Intaka, but am aware of Fernando Praderi as he was involved in the investigation conducted at KZN Health. I am unable to determine how Praderi became involved as his name does not appear on the 2 Intaka Northern Cape quotations; in fact no name of an Intaka Northern Cape representative appears D5/1

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- on these documents i.e. John Block or Dr Savoi. Fernando Praderi was copied/referred to in some of the email correspondence between Block and Savoi referred to above, however, the writer refers to a telecom between Praderi and Mr Williams of the Provincial Tender Board. They requested additional information. Memo 7 dated 23 June 2005 was then prepared by the Head: Provincial Supply Chain, recommending the Provincial Tender Board supports the recommendation to accept Intaka Northern Cape's quotation for the 2 water purification plants at Colesberg and Calvinia Hospitals, however the approval should be in principle depending on the information requested from Intaka (per the letter above dated 23 June 2005). Praderi replied on the same day with the requested information, however it appears this letter arrived after the meeting of the Provincial Tender Board of the same day as detailed below.
- 9.037 The minutes of the Provincial Tender Board for their meeting held on 23 June 2005, Memo 7, reflects that the said Board unanimously approved in principle the procurement of the two water purification plants from Intaka. The Office of the Provincial Tender Board must however report back to the Board concerning the outstanding information. Ms Block moved for adoption and Mr Beuzana seconded. I wish to point out that Gaborone was present at the said meeting and also commented on the matter. Gaborone was also the Chairperson of the Northern Cape DOH, Departmental Tender Committee and approved the letter sent to the Provincial Tender Board prepared by Mitha dated 17 June 2005; this is irregular as he is voting on something he had already approved. I have been unable to determine the relationship between John Block of Intaka Northern Cape and Ms SF Block, a member of the Provincial Tender Board as we were unable to trace and interview Ms Block.
- 9.038 On 27 June 2005 the Provincial Tender Board sent a letter to the Northern Cape DOH for the attention of Mitha and referred to his submission dated 17 June 2005. In terms thereof the Provincial Tender Board approved the recommendation to accept Intaka Northern Cape's quotation for two water purification plants at Colesberg and Calvinia Hospitals.

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- 9.039 The following documents seized by the SAPS at the premises of John Block, 10 Golden Gate Street, Cartes Glen, Kimberley relates to the order awarded to Intaka Northern Cape for the 2 water purification plants in question:
- 1) Two (2) x Northern Cape DOH, order numbers D 747867 and D 747868 dated 29 June 2005 issued to Intaka Northern Cape for the supply of one (1) x "Water Purification Plants Wataka Unit Model 050", for Colesberg and Calvinia hospitals each, in the amount of R2,015,000 and R1,935,720 respectively. D8/1-2
  - 2) An Agenda for a Board Meeting of Intaka Northern Cape to be held on 3 August 2005 at Intaka Investment (Pty) Ltd Cape Town, included distribution to Gaston Savoi and John Block. Reference is made to installation of Wataka's at Calvinia and Colesberg Hospitals against formal orders. D8/3-4
  - 3) Two (2) x Intaka Northern Cape tax invoices dated 1 September 2005 addressed to the Northern Cape DOH: R1,935,720 for a Wataka Unit Model 050 for Calvinia Hospital; and R2,015,520 for a Wataka Unit Model 050 for Colesberg Hospital. D8/5-6
  - 4) I previously referred to payments made to Intaka by the Northern Cape DOH, that included payments for the above mentioned tax invoices numbers 10014 and 10015. C1
  - 5) Intaka Northern Cape sent a fax to the Department on 7 September 2005 and referred to the abovementioned invoices. The writer was Ellen Jacobs of Intaka Investments and she requested payment into Standard Bank Claremont account number 071 8788 90, branch code 025109. I confirm that the said account is held in the name of Intaka Investments and not Intaka Northern Cape, hence payment was made to Intaka (Investments). I am not in possession of the bank statement reflecting the said payments were received by Intaka D8/7

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**3. The purchase of a further 8 water purification plants from Intaka**

**1) Letter from the Office of the Deputy Director General, Kimberley Hospital Complex dated 24 April 2006 to Ms P Potgieter, Office of the Provincial Tender Board**

- 9.040 On 24 April 2006 the Office of the Deputy Director General, Kimberley Hospital Complex sent a letter to Potgieter, Office of the Provincial Tender Board. The letter contains the name Mitha once more in the enquiries section on the top left of page 1 and his phone number and fax number. The letter is titled "Deviation of Tender-Water Purification Plants". D9
- 9.041 Mitha sets out the purpose and refers to two completed revitalized projects at Colesberg and Calvinia hospitals. He again refers to recent outbreaks of diarrhea in various communities throughout the Province that have raised concerns of the quality of water supplied by the municipalities. He further attached the letter of approval for the installation of the plants at Colesberg and Calvinia, previously discussed in detail by me and attached once more with the application and quotations for ease of reference under the "Old" Memo 7. D10
- 9.042 He further referred to letters from doctors complaining about the (quality) of the drinking water and attached same. I received copies of letters from 4 doctors in the bundle of documents handed to me by the Office of the Provincial Tender Board. The wording of each of the letters is similar indicating the doctors compiled the letters together or there was one author who drafted the letters on their behalf, and were then signed by the respective Doctors. I identified 3 of the 4 letters in the documents seized by the SAPS at Intaka's premises. There is no reason why Intaka should be in possession of these documents. D11/1-4  
D11/5-7
- 9.043 The letter (Submission) by Mitha further includes "Comments", identical to his 1<sup>st</sup> submission for Calvinia and Colesberg Hospitals dated 17 June 2005. He also refers to the previous quotations received, that are fraudulent in terms of my findings, and repeated hereunder for ease of reference: D9  
D1

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1. High- Tech Packaging R3,445,000
2. Forgeweld Stainless R3,190,700
3. Intaka Northern Cape R2,015,520.

- 9.044 Mitha added that "these revitalized projects will be funded by the Hospital Revitalization grant". He concludes that the Department has recommended "Intaka Investment" (not Intaka Northern Cape who submitted the quotation) as they are the lowest quoted price. The letter has been signed by Mr DD Madyo, Head of Department only and dated 24 April 2006. **D9/2-3**
- 9.045 Memo 5 dated 15 May 2006 was then prepared by the Head: Provincial Supply Chain, recommending the Provincial Tender Board supports the recommendation for Intaka to install water purification plants at the hospital revitalised sites. **D12**
- 9.046 The minutes of the Provincial Tender Board for their meeting held on 18 May 2006, Memo 5, reflects that the said Board unanimously approved the recommendation for Intaka to install the water purification plants at the hospital- revitalized sites. The Board added that the cost should remain fixed at R2,015,520 (or less for sites closer to the company's base). Any price increase should result in the department testing the market. The two-year guarantee should be confirmed per case. **D13**  
**D13/3**
- 9.047 On 19 May 2006 the Provincial Tender Board sent a letter to the Northern Cape DOH for the attention of Mitha and referred to his submission dated 24 April 2006. In terms thereof the Provincial Tender Board approved the recommendation for Intaka Northern Cape to install the water purification plants at the hospital- revitalized sites. The letter is concluded: *"The cost per unit remains fixed at R2,015,520 (or less for sites closer to company base). Any price increase should result in your department testing the market. The two-year guarantee should be confirmed per case"*. **D14**



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**2) Subsequent quotations for Intaka Investments (Pty) Ltd, Westpro Fluid Handling Systems (Pty) Ltd and Forgeweld Stainless (Pty) Ltd**

- 9.048 I previously briefly referred to and attached 8 of the 10 payment vouchers for payments made to Intaka by the Northern Cape DOH for the 10 water purification plants purchased. I wish to refer to the payment made for De Aar hospital as an example. Attached to the said payment voucher is the letter of authority from the Provincial Tender Board dated 19 May 2006. Also attached are 3 letters purporting to be competitive quotations. Two of the quotations are dated 25 May 2006, i.e. after the submission dated 24 April 2006 and the authority dated 19 May 2006, whilst the third quotation is undated. Hence, it would appear that the quotations were obtained to "test the market" after the Provincial Tender Board had approved Mitha's recommendation. As was the case with KZN Department of Health, all 3 quotations were from entities based in the Western Cape as detailed hereunder:
- 1) Intaka Investments (Pty) Ltd (not Intaka Northern Cape) quoted an amount of R4,800,000 including VAT, freight and installation for a Wataka unit model 050. It is dated 25 May 2006 and appears to be signed by Gaston Savoi. This is six days after the Provincial Tender Board approved an amount of R2,015,520 (or less for sites closer to company base) and that any price increase should result in the department testing the market. It is inconceivable that the price can increase by approximately 138% over a period of less than 1 week and it is further my submission that the Provincial Tender Board would never have anticipated such an increase.
- 2) Westpro Fluid Handling Systems (Pty) Ltd (Westpro), quoted an amount of R6,195,000 exclusive of VAT and ex-works Cape Town that appears to be signed by Ron Geddes (Geddes). I wish to add that the said Geddes of Westpro provided a quotation to the KZN Department of Health, investigated by me and I determined that Westpro do not manufacture or distribute water plants. I will again refer to this later in this report. The quotation is addressed to "Dr Hammid Shabbir". The quotation is undated.
- 3) Forgeweld Stainless (Pty) Ltd, already referred to by me as Forgeweld Stainless, quoted an amount of R5,680,000 exclusive of VAT that appears to be signed by

References in the margin refer to  
 appendix numbers

PricewaterhouseCoopers



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A Romani, previously referred to by me as Ansano Romani. The said Ansano Romani was also implicated in the investigation performed by me at the KZN Department of Health that I will refer to again later in this report. The quotation is dated 25 May 2006. The quotation is addressed to "Dr Hammid Shabbir". I will later show that this name is spelt incorrectly and appears as such on both the Westpro and Forgeweld Stainless quotations. The correct spelling is Hamid Shabbir hereinafter referred to as **Shabbir**.

9.049 I had previously investigated Westpro in the KZN Department of Health investigation. For ease of reference I attach a Kreditinform Enquiry. I determined that Westpro Fluid Handling Systems (Pty) Ltd trading as Westpro with registration number 1994/004063/07 was previously registered as a cc. It was first registered on 15/06/1994. The Active Principals are: CJ Scott id 471112 5064 087 appointed on 15/06/1994; RJ Geddes id 530427 5140 003 appointed on 15/06/1994; and D Meagan id 600521 5098 107 appointed on 14/05/2001. Hence, all 3 were Principals at the date of the quotation; that was signed under the name Ron Geddes. They are also reflected as directors in terms of the header of the quotation. It is evident that this was an established business at the time of the quotation. I had also previously obtained an affidavit from Mr David Meagan (**Meagan**) of Westpro in the KZN Department of Health investigation. He was interviewed again regarding the Northern Cape DOH quotation and stated the following:

B5

- 1) He had no knowledge of the existence of the Westpro quotation;
- 2) The main and primary function of Westpro is to sell industrial pumps;
- 3) Westpro have not provided any water purification plants to the Northern Cape DOH;
- 4) Westpro does not have capacity to manufacture water purification plants;
- 5) Westpro is a small business and have never quoted for such a large amount being R6,195,000 per unit x 12 units.

9.050 Meagan provided an affidavit confirming the above and it is evident that the Westpro quotation is fraudulent.

F5

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- 9.051 Geddes was interviewed by the SAPS who obtained a warning statement from him summarised hereunder: F6
- 1) He had no re-collection of the quotation at all;
  - 2) In 2006 he had no dealings with Intaka;
  - 3) He had never heard the name Dr Hammid Shabbir or spoken to a person by that name;
  - 4) It could be his signature, but as he can recall he had never signed a quotation for the Northern Cape DOH Kimberley.
- 9.052 Gerrans of Grotto was also interviewed in respect of the Forgeweld Stainless quotation dated 25 May 2006 issued under signature of Romani. He provided a further affidavit confirming the said quotation to be fraudulent, primarily for the following reasons: C2/8-9  
F7
- 1) Romani acted as Managing Director of Forgeweld Stainless (and Grotto Defranceschi) until 1999 at which point Gerrans was appointed to oversee the cessation of manufacturing operations;
  - 2) Forgeweld Stainless vacated its premises, sold or transferred all plant and equipment, and did not actively solicit manufacturing work from third parties after 1999;
  - 3) It was thus impossible that the company was receiving enquiries or submitting quotations for water plants in 2006;
  - 4) It is also impossible for Romani to have been acting within any type of mandate or authority to trade on water plants through Forgeweld Stainless in 2006;
  - 5) The letterhead of the quotation is not authentic and the telephone numbers listed are those of Grotto, where Romani was based in 2006;
  - 6) The structure and presentation of the letterhead bears no resemblance to the letterhead of Forgeweld Stainless when it was trading in the 1990's.
- 9.053 I attach a Kreditinform Enquiry for Forgeweld Trading and Manufacturing (trading as Forgeweld Stainless). I determined that their registration number is 199200522107 is the same as that appearing on the disputed quotation. It was registered on 10/09/1992. It further reflects Gerrans as an active director appointed on 1 July 2009 B6

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and hence his authority in respect of his knowledge of the business. Romani does not appear as either an active or non- active director.

- 9.054 Romani was interviewed by SAPS and he effectively denied any wrongdoing and also could not recall specifics.
- 1) He could not recall who contacted him from the Northern Cape DOH requesting the quotation;
  - 2) He admitted preparing the quotation;
  - 3) Forgeweld Stainless was not trading as at 25 May 2006;
  - 4) Forgeweld Stainless did not manufacture water purification plants;
  - 5) He could not recall how he sent the quotation to the Department; and
  - 6) He did not know how Intaka came into possession of the Forgeweld Stainless quotation (to be discussed below).
- 9.055 Romani confirmed the above explanation in his warning statement obtained by the SAPS. F8
- 9.056 I located copies of the 3 quotations in question amongst the documents seized by the SAPS at Intaka premises on 25 August 2010. They were faxed by Alicia Marcos to Shabbir on fax number 053- 8314587 on 26 May 2006 at 16:47. Heidi Williams, personal assistant to the CEO, Kimberley Hospital Complex confirmed that the said fax number is that used in the CEO's office and hence was Shabbir's fax number at the time. They are identical to the copies in the Departments records apart from the "paid" stamp, a handwritten telephone number "021 9301402" on the Westpro quotation and a handwritten address "PO Box 6484" on the last copy of the Westpro quotation. There is no reason why Intaka should be in possession of these quotations: this indicates to me that there was collusion between Dr Savoi of Intaka, Geddes representing Westpro who do not manufacture or distribute water purification plants, Romani representing Forgeweld Stainless who were not trading in 2006, and Mitha, Hamid Shabbir and other officials from the Northern Cape Department of Health. J3/2-5  
J3/1+6  
J3/7-8  
C2/6-9  
C2/7  
C9/7

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- 9.057 I further identified a hard copy e-mail amongst the Intaka records seized by the SAPS on 25 August 2010, from Alicia Marcos to Shabbir's private e-mail address hshabbir@mweb.co.za dated 25 May 2006 at 15:50. She has attached the fraudulent Westpro quotation and the Intaka quotation. Heidi Williams, personal assistant to the CEO, Kimberley Hospital Complex, confirmed that Shabbir had an official e-mail address which he hardly used, but used the aforementioned mweb address. I further identified a similar e-mail in the electronic records of Intaka seized by the SAPS during the first search of Intaka, from Alicia Marcos to Shabbir's private e-mail address hshabbir@mweb.co.za dated 25 May 2006 at 04:40pm. She also attached the fraudulent Westpro quotation and the Intaka quotation. J4/1-3 J3/7-8 J4/4-6
- 9.058 I previously briefly referred to and attached 8 of the 10 payment vouchers for payments made to Intaka by the Northern Cape DOH for the 10 water purification plants received. I determined that all 8 Intaka invoices were addressed to Shabbir (refer to annexures C2/4, C3/4, C4/4, C5/4, C6/4, C7/4, C8/4 and C9/ 4). The invoices should have been addressed to Mitha as Director Hospital Revitalisation as will become evident later in this report. Upon further examination I determined the 8 payments were authorised by the following officials: C2-C9
- 1) Shabbir- 3 payments (annexures C2/1, C3/1, C4/1);
  - 2) Gaborone- 4 payments (annexures C5/1, C6/1, C8/1, C9/1);
  - 3) Mitha- 1 payment (annexure C7/1)
- 9.059 In addition Gaborone checked and verified the payment to be correct on 3 of the 4 payments where he had not authorised the expenditure (annexures C3/1, C4/1, C7/1). A cursory review of the documents attached to the "Order Payment Transaction" form would have alerted even a person with no financial background that the prices had been significantly inflated subsequent to the Tender Board Approval.

**4. Interviews with Northern Cape DOH administrative officials**

- 9.060 Interviews were conducted with Northern Cape DOH administrative officials as

References in the margin refer to  
 appendix numbers

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discussed hereunder:

**Jefferson Baloyi**

- 9.061 Jefferson Baloyi is an Assistant Director SCM Demand Section. At the time the plants were procured he reported to Mitha, Director SCM. Mitha's personal assistant at the time the late Ms Truia Deetlifs was responsible for general administrative duties and he assisted her in this role. He has no knowledge of any of the Submission or quotations submitted by Mitha and is unaware of how the Department procured the plants. He provided an affidavit detailing his involvement in the procurement of the water purification plants. F11

**Heidi Williams**

- 9.062 Heidi Williams is the personal assistant of Mr G Moncho the current CEO of Kimberley Hospital. At the time the plants were procured she was the personal assistant of Shabbir who was the CEO of Kimberley Hospital from 2005 to the date Shabbir resigned. She was responsible for general administrative duties in the office of Shabbir. She has no knowledge of any of the Submissions or quotations specifically those addressed to Shabbir personally. She is further unaware of how the Department procured the plants as Shabbir was not involved in procurement and was not a member of any SCM Committees. She provided an affidavit detailing her involvement in the procurement of the water purification plants. F12

**Martha Kgomongwe**

- 9.063 Martha Kgomongwe is a Senior Administrative Officer is the Infrastructure Management Component and reports to Mr Mabona, Director Finance and Hospital Revitalisation Programme (HRP). At the time she reported Mitha until he resigned in June 2007. She is responsible for managing the registering of any expenditure occurring from the revitalisation grants. She recalled receiving invoices from Intaka for water purification plants for hospitals that did not form part of the HRP. She approached Mitha who informed her that the Department did not have money



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available and that they should be paid out of the HRP Grant received from the National Department of Health. She confirmed the following to be the status of the 10 hospitals that received the water purification plants in relation to the HRP: Calvinia and Colesberg Hospitals were part of the initial HRP, however the infrastructure had to be completed in the financial year 2004/2005 and not 2005/2006;

Barkly West and Gordonia Hospitals were included in the HRP for 2005/2006 financial year, as they replaced Calvinia and Colesberg Hospitals; None of the remaining 6 hospitals were part of the HRP.

- 9.064 Hence, Mitha's Submission for the 8 additional hospitals: *"these revitalised projects will be funded by the Hospital Revitalisation Grant"* was incorrect and amounts to a misrepresentation to the Provincial Tender Board. Martha Kgomongwe provided an affidavit detailing her involvement in the procurement of the water purification plants.

F13

**Lesetja Mabona**

- 9.065 Lesetja Mabona is the current Director of the HRP and assumed this role from Mitha with effect from July 2008. With regard to the "other revitalised sites" (the 8 additional hospitals) referred to by Mitha in his Submission dated 24 April 2006, he stated that he was unaware of what Mitha was referring to as his office has no correspondence or documentation regarding these sites and he cannot find any record thereof. It is my submission that ordinarily one would expect to find official records confirming the 8 additional sites were part of the HRP in the office of the Director responsible for same. Lesetja Mabona provided an affidavit detailing his knowledge of the HRP as referred to in the aforementioned Submission of Mitha.

F14

**Yvonne Nowell**

- 9.066 Yvonne Nowell is an Assistant Director, Acquisition SCM. She reported to Mitha as Director SCM and she was a Senior Administration Officer at the time. She was responsible amongst other duties for obtaining quotations, placing of orders and authorising placement of orders within her delegated authority. She confirmed that

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the Department submitted tenders for adjudication to the Provincial Tender Board in 2005 per SCM Policy and in this case applications for waiver of deviation from tender procedures.

9.067 She confirmed placing the 10 orders for Intaka for the purchase of the water purification plants, although as previously stated I have not been provided with the orders for Calvinia and Colesberg hospitals. She did not call for any of the quotations nor did she prepare any of the Submissions. She compiled the orders supported by Mitha's application, the quotations and letters of authorisation from the Provincial Tender Board.

9.068 In respect of the 8 additional orders she noted that the huge price increase in the amount of R4,8 million as set out in the quotation. She questioned this with Mitha and he told her that the market had been tested. Upon instruction of Mitha she compiled the 8 orders, but did not authorise placement thereof. She did not know the hospital names at the time and hence did not include the names of the hospitals on the orders. She confirmed that Mitha authorised placement of 3 of the 8 orders whilst Shabbir authorised placement of the remaining 5 orders; both being authorised to do so. Yvonne Nowell provided an affidavit detailing her involvement in the procurement of the water purification plants

F15

**5. Interviews with members of the Provincial Tender Board and the Secretariat**

9.069 Interviews were conducted with members of the Provincial Tender Board who could be traced as detailed below:

**Philipene Potgieter**

9.070 Potgieter is the Director Asset Management, Northern Cape Provincial Treasury. At the time 2005 and 2006 when the Submissions were made by Mitha to the Provincial Tender Board she was the Secretariat for the Provincial Tender Board. She confirmed receiving the Submissions prepared by Mitha and compiling the relevant Memo's addressed to the Provincial Tender Board. She did not recall the specific

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Submissions or anything related thereto. She provided the following documents already referred to in this report in respect of the Submission for Calvinia and Colesberg Hospitals and thereafter the additional 8 hospitals:

Supply of two (2) x Water Purification Plants at Colesberg and Calvinia Hospitals by Intaka

- 1) A memorandum from the Office of the Provincial Tender Board titled "Memo 7" with file reference number TP4/1/15-G dated 23 June 2005 with the supporting documentation attached thereto as listed hereunder.
- 2) A letter from Mr S Mitha addressed to Ms P Potgieter of the Tender Board titled "Deviation of Tender- Water Purification Plant" dated 17 June 2005;
- 3) A letter from Charles Marsden of High-Tech Packaging (Pty) Ltd addressed to the Department of Health, Northern Cape Provincial Government titled "4000lt Capacity Water Treatment Plants" dated 23 May 2005.
- 4) A letter from TP Kubheka of Forgeweld Stainless (Pty) Ltd addressed to the Department of Health, Northern Cape Provincial Administration titled "Tender Price for Two 37m<sup>3</sup> Capacity Water Purification Plants" dated 15 April 2005.
- 5) A letter on an Intaka Northern Cape letterhead addressed to Mr Dion Madyo, Department of Health marked "Sales Order 4-2" dated 4 December 2005.
- 6) A 2<sup>nd</sup> letter on an Intaka Northern Cape letterhead addressed to Mr Dion Madyo, Department of Health marked "Sales Order 4-1" dated 4 December 2005.
- 7) A letter from Mr H Williams of the Office of the Provincial Tender Board addressed to Mr N Praderi of Intaka Northern Cape titled "Quotation for Water Purification Plant-Colesberg Hospital: Department of Health-Northern Cape" dated 23 June 2005.
- 8) A fax from Fernando Praderi of Intaka addressed to Mr Williams titled "Quotation for water purification plant-Colesberg Hospital: Department of Health-Northern Cape" dated 23 June 2005.
- 9) Minutes of the Provincial Tender Board Committee meeting held on 23 June 2005.

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Supply of (8 additional) Water Purification Plants to the hospital revitalised sites by Intaka

- 1) A memorandum from the Office of the Provincial Tender Board titled "Memo 5" with file reference number TP4/1/15-G dated 15 May 2006 with the supporting documentation attached thereto as listed hereunder.
- 2) A letter from Mr S Mitha addressed to Ms P Potgieter of the Tender Board titled "Deviation of Tender- Water Purification Plant" dated 24 April 2006.
- 3) A memorandum from Dr H Saeed addressed to Dr D Theys titled "Inpatient Health Care" dated 11 January 2006.
- 4) A memorandum from Dr S Hayat addressed to Dr D Theys titled "Inpatient Health Care" dated 19 January 2006.
- 5) A memorandum from Dr A Wonner addressed to Dr D Theys titled "Inpatient Health Care" dated 2 February 2006.
- 6) A memorandum from Dr S Maqbool addressed to Dr D Theys titled "Inpatient Health Care" dated 8 February 2006
- 7) Minutes of a Special Meeting of the Provincial Tender Board Committee held on 18 May 2006.
- 8) A letter from the Office of the Provincial Tender Board addressed to Mr S Mitha of the Department of Health titled "Deviation from BID Procedures: Water Purification Plant" dated 19 May 2006.

- |       |  |                                 |
|-------|--|---------------------------------|
| 9.071 | Potgieter provided an affidavit and attached the documentation referred to above.  | F16                             |
| 9.072 | I determined that 3 of the 4 doctors who purportedly provided letters of motivation previously discussed by me have left South Africa. Dr Hamid Saeed is the only remaining doctor in the country and still employed at Kimberley Hospital. He provided an affidavit where he stated that he could not recall making a formal motivation to management for purified water as detailed in the letter. He added that the letter looked suspicious for reasons given by him, although the signature on the letter "appears to be like my signature". I cannot determine whether Dr Saeed's signature has been forged. I wish to repeat that a copy of Dr Saeed's letter was located within the Intaka seized records. | D11/1-4<br><br>F23<br><br>D11/7 |

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**Anna Margaretha van Niekerk**

9.073 Anna van Niekerk is a private sector person and the owner of Diamond Pak. She was nominated by the Northern Cape Chamber of Commerce and Industry (NOCCI) to represent the private business sector in the Northern Cape on the Provincial Tender Board. She was a member of the Provincial Tender Board who adjudicated on the 2 water purification plants for Colesberg and Calvinia on 23 June 2005. She confirmed the procedure was that the members of the Provincial Tender Board would receive the documentation and Memo prepared by Potgieter a day or two before the meeting. She further confirmed receiving all relevant documents, as detailed by Potgieter above, including the quotations and Submission by Mitha. She received them in good faith believing them to be authentic.

9.074 She was not present when the Provincial Tender Board approved the additional 8 plants on 18 May 2006. Anna van Niekerk provided an affidavit confirming her involvement in the procurement of the water purification plants as a member of the Provincial Tender Board.

F17

**Magdalena Petronella Vosloo**

9.075 Magdalena Vosloo is a Manager SCM, Northern Cape Department of Social Development. She was a member of the Provincial Tender Board from 2004 until it was phased out in approximately June 2006.

9.076 She was not present when the Provincial Tender Board approved the initial Submission for Calvinia and Colesberg. She was a member of the Provincial Tender Board who adjudicated on the additional 8 plants on 18 May 2006. She could not recall the specific award, but that the application referred to the first award in respect of Calvinia and Colesberg. She also confirmed the procedure was that the members of the Provincial Tender Board would receive the documentation and Memo prepared by Potgieter a day or two before the meeting. She further confirmed receiving all relevant documents, as detailed by Potgieter above, including the quotations and Submission by Mitha. She received them in good faith believing them to be authentic.

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9.077 She added further that the increase of the water purification plants from R2,015,520 to R4,800,000 was a "huge increase" and had to be referred back to the Provincial Tender Board for consideration. Hence, the Department was not authorised to approve this increase without Provincial Tender Board authority. Magdalena Vosloo provided an affidavit confirming her involvement in the procurement of the water purification plants as a member of the Provincial Tender Board.

F18

**Abdul Kazie**

9.078 Abdul Kazie is a private sector person and a member of AM Kazie Accountants. He applied to be a member of the Provincial Tender Board in late 1998 and became the chairperson in 2004 as far as he could recall until it was phased out. He did not attend either of the two Provincial Tender Board meetings in respect of the water purification plants- he attended the 2<sup>nd</sup> meeting for the Oxyntaka's only. He was asked to respond to the increase from R2,015,520 to R4,800,00. He stated that based on his (considerable) experience as a member and thereafter Chairperson of the Provincial Tender Board, that any change to the price or specifications must be referred back to the Provincial Tender Board for approval. He added that the increase is in addition a substantial increase and the Tender Board may or may not have approved it. Abdul Kazie provided an affidavit that included the above.

F19

9.079 I wish to add that based on the explanations offered by the aforementioned members of the Provincial Tender Board and the minutes of the meetings of 23 June 2005 and 18 May 2006, it is evident that no person or official was requested to provide any information from a technical perspective in relation to the water purification plants, their capabilities and associated costs, including maintenance, chemicals and that a comprehensive needs analysis had been done and the sites identified. It is my submission that the Provincial Tender Board merely accepted what Mitha had included in his Submissions that was repeated by Potgieter in her Memo's and that they did not request any additional information. It is evident that none of the members of the Provincial Tender Board can be deemed to be a technical person knowledgeable in water purification plants.



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**6. Northern Cape DOH officials involved in the procurement and payment procedures for the 10 water purification plants purchased from Intaka**

9.080 I have discussed the role played by Mitha, Gaborone, Madyo and Shabbir in the respective procurement and payment procedures for the 10 water purification plants purchased from Intaka. I wish to briefly refer to their official positions at the time as contained in their personal records maintained by the Northern Cape DOH.

**i. Sanjay Mitha**

9.081 I determined from the Department's Persal records that SK Mitha (**Mitha**), identity number 710129 5016 082 was employed by the Northern Cape DOH; he was appointed on 1 April 1998 and resigned on 30 June 2007. A letter on a Department of Health letterhead dated 30 March 2005 contained in his personal file maintained by the Northern Cape DOH, reflects that Mitha was appointed to the post of Director: Hospital Revitalisation and Infrastructural Development effective 1 April 2005. On the date of assumption of duty he was to report to the office of the Head of Department, Kimberley Office Complex. A further letter on Department of Health letterhead dated 27 October 2006 contained in his personal file reflects that Mitha was relocated from the Hospital Revitalisation Component to Supply Chain Management effective 1 November 2006. A curriculum vitae attached to the bundle of documents relating to the aforementioned post, reflects his full names as Sanjay Kumar Mitha with identity number 710129 5016 082. Two of his references are Mr DD Madyo, HOD, Department of Health, Northern Cape Province and Dr H Shabbir, CEO, Kimberley Hospital Complex.

G1/1-3

G1/4-5

G1/6

G1/7-12

**ii. Daniel Gaborone**

9.082 I determined from the Department's Persal records that DM Gaborone (**Gaborone**) id 690815 5655 085 is employed by the Northern Cape DOH. He was appointed on 1 July 2000 and is still employed by the said Department. A letter on a Department of Health letterhead dated 11 July 2000 contained in his personal file maintained by the Northern Cape DOH, confirms the said appointment as a Deputy Director. His was

G2/1-3

G2/4

G2/5-6

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appointed as Chief Financial Officer (CFO) for the Northern Cape DOH for a period of 5 years with effect from 1 January 2002, in terms of a letter issued to him dated 30 November 2001. The appointment was accepted by him in terms of an undated "Acceptance of offer of employment". He further signed a Senior Management Performance Agreement for the period 1 April 2006 to 31 March 2007, on 26 October 2006, at which time he was still the CFO. I understand that Gaborone is currently the CFO of the Kimberley Hospital Complex.

G2/7

G2/8-15

iii. **Deon Madyo**

9.083 I determined from the Department's Persal records that Deon Danile Madyo (Madyo) identity number 691220 5421 084 was employed by the Northern Cape DOH; he was appointed on 1 July 1998 and resigned on 4 August 2006, at which time he was Deputy Director General. I understand that he was the Head of Department (HOD) during the period of the procurement of the water purification plants. I have not been provided with his personal file as the Department has been unable to locate it.

G3/1-3

iv. **Hamid Shabbir**

9.084 I determined from the Department's Persal records that Hamid Shabbir (Shabbir) identity number 650703 5878 089 was employed by the Northern Cape DOH; he was appointed on 1 August 1993 and resigned on 20 August 2008, at which time he was the Chief Executive Officer (CEO) of Kimberley Hospital. His resignation was confirmed in a letter dated 19 July 2008 contained in his personal file maintained by the Northern Cape DOH. A further document titled "Hamid Shabbir" under Career Progression reflects the following:

G4/1-3

G4/4

G4/5-8

- 1) Acting CEO Kimberley Hospital Complex since 2003;
  - 2) Medical Director Kimberley Hospital Complex June 2001 to September 2003;
  - 3) Principal Medical Officer Kimberley Hospital Complex August 1993 to May 2001.
- In terms of a Northern Cape DOH letter dated 31 August 2004 he was appointed CEO of Kimberley Hospital Complex with effect from 1 August 2004.

G4/9-10

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- 9.085 I further located a form Z864 National Treasury Pensions Administration Personal Particulars in the personal file of Shabbir. The said form consists of 3 pages. It reflects the spouse of Shabbir as Samina Hamid date of birth 29 October 1964, and date of marriage 22 September 1988. Attached is a Marriage Certificate consisting of 2 pages issued in Islamabad. It reflects that Hamid Shabbir as the bridegroom and his father as Muhammad Shabbir Ahmad. The bride is Samina Gulzar daughter of Malik Gulzar Ahmad. One of the witnesses is Hefeez Ur- Rehman. The marriage was registered on 25 September 1988. I will discuss the relevance of this when referring to Rehman Enterprises later in this report. **G4/11-13**  
**G4/14-15**
- 9.086 In addition to the above 4 officials, I determined upon examination of documents seized at Intaka, that an ex-official Nelmarl Oosthuizen was linked to an entity known as Watertech who received commissions from Intaka to be discussed later in this report.
- v. Nelmarl Oosthuizen**
- 9.087 I determined from the Departments Persal records that Nelmarl Oosthuizen (Oosthuizen) identity number 750525 0016 087 was employed by the Northern Cape DOH; she was appointed on 1 August 1998 and resigned on 31 January 2006. At the time of her resignation she was an administrative officer. Her resignation was confirmed in a letter dated 30 December 2005 contained in her personal file maintained by the Northern Cape DOH. **G5/1-3**  
**G5/4**
- 7. Northern Cape DOH officials linked to entities that received commission payments for sales from Intaka**
- 9.088 I determined that a number of entities linked to Northern Cape DOH officials received commission payments from Intaka for the sale of water purification plants to Northern Cape DOH. This report excludes commission payments to entities from Intaka for the sale of Oxyntaka plants and Dialysis machines to Northern Cape DOH as these will be covered in separate reports.

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**Stratfit cc trading as Watertech**

- 9.089 A number of documents seized by the SAPS at Intaka in the Western Cape related to an entity known as Watertech with registration number 2006/145315/23 recorded on their documentation, an example being Watertech invoice no 1 dated 15 January 2007. I determined that the said registration number is allocated to Stratfit cc which trades as Watertech (**Watertech**) registered on 23 August 2006. The sole member (active principal) is Saima Shahzad id 700731 0627 086 (**Saima Shahzad**) effective 30 January 2007, whilst Barend Barnadt (**Barnadt**) was a member from 23 August 2006 but has resigned (date unknown). A summary of significant Watertech documents is recorded in the table below:

|   | Date       | Description  | Location           | Amount ( R )     |     |
|---|------------|--|--------------------|------------------|-----|
| 1 | 11/01/2007 | Agreement between Intaka and Watertech                 | Intaka             |                  | H2  |
| 2 | 15/01/2007 | Watertech invoice # 1 for Commission on sale W 50      | Intaka             | 877,193          | H3  |
| 3 | 02/02/2007 | Watertech invoice # 2 for Commission on sale W 50      | Intaka             | 877,193          | H5  |
| 4 | 01/03/2007 | Watertech invoice # 3 for Commission on sale W 50      | Intaka             | 877,193          | H6  |
| 5 | 23/04/2007 | Watertech tax invoice # 4 for Commission on sale W 050 | Intaka             | 1,000,000        | H10 |
| 6 | 23/05/2007 | Watertech tax invoice # 5 for Commission on sale W 050 | Intaka             | 1,000,000        | H11 |
|   |            |  | <b>Total ( R )</b> | <b>4,631,579</b> |     |

- 9.090 I wish to refer to the above mentioned documents in more detail:

- 1) A Marketing and Distribution Agreement (**the Watertech Agreement**) entered into between Intaka and Watertech was signed on 11 January 2007 for the **distribution of composite of chemicals** effective from the date of signature for a period of 1 year. It appears to be signed by Dr Savoi on behalf of Intaka and Nelmarie Oosthuizen on behalf of Watertech, based on her signature recorded on her letter of resignation referred to earlier. The definition of "the products" to be

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- marketed and distributed appears to be chemicals only for the water purification plants sold by Intaka, as recorded in the Preamble and Annexure 1 to the Watertech Agreement. The agreement was signed (11 January 2007) just prior to Saima Shahzad becoming a member (30 January 2007). Hence, the entity appeared not to have traded prior to this, which was confirmed by Barnadt's explanation. I further wish to point out that the initial introductory meeting between Dr Savoi, John Block, Shabbir and Madyo occurred on 7 March 2005. The water purification plants were then purchased directly between Intaka/ Intaka Northern Cape and the Northern Cape DOH in 2005 and 2006; there is no reference to any involvement of Watertech and/or Saima Shahzad and/or Oosthuizen, and in any event Watertech was not yet trading during the said period. H2/4  
H2/17
- 2) Watertech invoice number 1, seized at Intaka, and issued to Intaka is dated 15 January 2007 in the amount of R877,193, however the VAT amount has not been recorded on the invoice. The account details of Watertech are recorded as: Stratfit cc; Standard Bank; Chapel Street, Kimberley; branch code 051001; and account number 040090116. Saima Shahzad became a member of Watertech on 30 January 2007. I am not in possession of an Agreement between the said parties for the "Commission on sale of W 50"; being the Wataka 50 Water Purification Plant supplied by Intaka. There is further no evidence based on documents examined by me that Watertech were in any way involved in the provision of the water purification plants that would entitle them to a commission. The payments to Intaka by the Northern Cape Department of Health for Water Purification Plants were made during the period 5 October 2005 to 7 December 2006 as previously stated. The words "New Beneficiary" has been written alongside the bank account details on the invoice that would indicate this was the first occasion Intaka was making a payment to this account. I also acquired a copy of the invoice in question from Adriaan Loubscher previously employed by Intaka. H3/1  
H3/2
- 3) I performed a calculation and determined that R877 193 plus VAT amounts to R1 million. There is no evidence that Watertech were entitled to the said commission. The quotations received from Intaka, Westpro and Forgeweld were submitted to the Department and the last mentioned 2 were addressed to Hamid

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Shabbir. This would suggest the said entities dealt directly with the Department and/or Hamid Shabbir. I have already in this report stated that I had determined the cost of the Wataka 50 to be a maximum of R725,000. Hence, Watertech's "commission" alone of R1 million exceeded the cost of the plant to Intaka. C4

4) Watertech invoice number 2 issued to Intaka is dated 2 February 2007 in the amount of R877,193, however the VAT amount has not been recorded on the invoice as was the case with invoice number 1. The remainder of the details recorded thereon is consistent with that recorded on invoice number 1. H5

5) Watertech invoice number 3 issued to Intaka is dated 1 March 2007 in the amount of R877,193, however the VAT amount has not been recorded on the invoice. The remainder of the details recorded thereon is consistent with that recorded on invoice numbers 1 and 2. H6

6) Watertech Tax Invoice number 4 is dated 23 April 2007 in the amount of R877,193 excluding VAT, and R1,000,000 inclusive of VAT. The description is recorded as "Commission on sale of W050". The bank details are the same as that recorded on Watertech invoices 1, 2 and 3; however the branch code is recorded as 050002, as opposed to 051001. H10

7) Watertech Tax Invoice number 5 is dated 23 May 2007 in the amount of R877,193 excluding VAT, and R1,000,000 inclusive of VAT. The remainder of the details recorded thereon is consistent with that recorded on tax invoice number 4. H11

3.091 In addition file number 131 containing the following markings on the side "Intaka Nutri Tenders: Dr Shabbir/ Watertech/ Spectrum Health" was seized by the SAPS at Intaka. The contents of the file related to the procurement of dialysis machines by Northern Cape DOH and will be covered in a separate report by me; however the markings are significant as it reflects Shabbir's involvement with Watertech and not Saima Shahzad or Nelmarie Oosthuizen, according to Intaka's records. H12

**Stratfit cc Standard Bank account number 040090116**

9.092 The aforementioned bank account was subpoenaed by the SAPS. The Application to open an Enterprise/ Business account, reflects the following: H13

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- 1) The document was completed in respect of Chapel Street branch and is dated 19 December 2006;
- 2) The postal address is furnished as PO Box 3211, Kimberley. This is the same postal address provided by Shabbir on a form Z864 National Treasury Pensions Administration Personal Particulars in the personal file of Shabbir previously discussed; G4/12
- 3) The type of business conducted is recorded as Hotel and Restaurant;
- 4) Dr Maqbool is recorded as the Manager with contact telephone number 053-8331472;
- 5) The references are: Meridian Hotel Dr Maqbool telephone number 082 468 3982; and Dr Shabbir telephone number 083 411 9017. The contact telephone for Dr Maqbool is the same number as that provided by Saima Shahzad as sole member on page 2 of the Application. Her address is furnished as 20 Kestel Street, Monument Heights. Shabbir's address on the form Z864 is 16 Kestel Street, Monument Heights. G4/12

9.093 A Consumer Report enquiry was conducted for Shabbir. His address is listed as PO Box 3211, Kimberley, being the address of Watertech per Standard bank records and 16 Kestel Street, Kimberley. A Consumer Report enquiry was also conducted for Saima Shahzad. One of her addresses is 20 Kestel Street, Kimberley. Under employer information the name Dr Maqbool is recorded. I further determined from a Kredit search report that an entity known as Kim Corp 960 cc with registration number 2004/097688/23 was registered on 16/09/2004. Shabbir is an active principal and his address is recorded as 16 Kestell Street, Kimberley. Shahzad Maqbool is another active member and his address is listed as 20 Kestell Street, Kimberley; and hence the name Shahzad linked to Saima Shahzad. I understand that the said Shahzad Maqbool and Saima Shahzad are related. The documentation discussed above would indicate that Shabbir, (Dr) Shahzad Maqbool and Saima Shahzad are linked to Watertech. When the SAPS went to conduct a search of 20 Kestel Street, Kimberley they located a Dr Mahmood and Dr Bushra who were living there since December 2008. Neither Shahzad Maqbool nor Saima Shahzad could be traced. Shabbir was found to be the occupant of 16 Kestel Street, Kimberley where the SAPS conducted a search. B8  
B9  
B10



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|       |  |                       |
|-------|--|-----------------------|
| 9.094 | I examined the personal file of Shahzad Maqbool maintained by the Northern Cape DOH and determined the following:  | G6                    |
| 1)    | A copy of his identity number reflects his full names as Shahzad Maqbool id 640601 6044 185, born in Pakistan and issued on 1994/09/27.  | G6/1                  |
| 2)    | A Persal Administration: NC Health: Enquiry Service Record dated 16 April 2009 reflects he was appointed on 13 February 2001 and was still employed by the Department on 16 April 2009.  | G6/2<br>G6/3          |
| 3)    | A Northern Cape DOH letter dated 16 April 2009 reflects that Shahzad Maqbool ID 640601 6044 086 worked in the Kimberley Hospital Complex from 1 September 2001 to date (being 16 April 2009).  | G6/4                  |
| 4)    | Page 1 of a form National Treasury Pensions Administration Withdrawal from Fund, reflects he resigned on 31 January 2010.  | G6/5                  |
| 5)    | A "Naeem Translation House", Islamabad form is a Marriage Certificate. It reflects that Shahzad Maqbool date of birth 01/06/2004 was married to Saima Mazhar dated of birth 31/07/1970, on 12 November 1994.   | G6/6-7                |
| 6)    | A Republic of South Africa Permit for Permanent Residence reflects that the permit was issued to Shahzad Maqbool on 5 July 1993. Attached is a certified copy of birth entry no 55/96 issued in Lahore on 14/03/1996. It reflects that infant as Dania, the fathers name as Shahzad Maqbool and the mothers name as Saima Shahzad. Also attached to these 2 documents is a copy of an identity book of Saima Shahzad; it reflects her id 700731 0627 185, born in Pakistan and issued on 1998/07/08. | G6/8<br>G6/9<br>G6/10 |
| 9.095 | I further examined statements no 1 to 41 inclusive subpoenaed by the SAPS from Standard Bank. I will refer to these documents and link them to the Watertech invoices to Intaka where possible. I will also refer to entries that are relevant and that required further investigation.  | H14                   |
| 1)    | Statement number 1 reflects a zero opening balance as at 6 February 2007 and a debit service fee of -R55.00. The opening of the account was within a week of Saima Shahzad becoming a member of Stratfit.  | H14/1<br>B7           |
| 2)    | Statement number 2 is dated 6 March 2007 and covers the period 16 February   | H14/2                 |

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- 2007 to 1 March 2007. The opening balance as at 7 February 2007 was R55. A credit transfer in the amount of R877,193 was made by Intaka Investments on 16 February 2007. Watertech invoice number 1, seized at Intaka, and issued to Intaka is dated 15 January 2007 in the amount of R877,193, H3
- 3) A magtape transfer in the amount of R612,000 was made by Skyros Health on 28 February 2007. Skyros Health is linked to Intaka. A Watertech invoice dated 15 January 2007 addressed to Skyros Health refers to "Commission on Sales" only in the amount of R612,000. A copy of this invoice was provided to me by H14/2
- Adriaan Laubscher previously employed by Intaka during an interview with him. This was preceded by an e-mail from Savoi to Shabbir, contained in the H15/1
- electronic data of Shabbir seized by the SAPS. It is dated 23 August 2006 and titled "Revised quotation: Siemens CT Scanner 64- Slice". The body reads as follows: *"Dear Amigo, I'm enclosing the surprise as promised. Please bear in mind that this is the net price. We need to calculate our profits, best regards"*. H15/2
- Attached is a Skyros Health letter dated 23 August 2006 addressed to Hamid Shabbir in respect of a revised quotation for the Siemens CT Scanner 64- slice. H15/3
- Thereafter an internal e-mail was sent by Alicia Marcos of Skyros to Tracey Ward dated 29 January 2007 seized in the electronic data of Intaka by the SAPS. The subject is Watertech and commission in respect of the sale of 16 dialysis machines in the amount of R612,109 including VAT. It commences *"please send an e-mail to Elma Oosthuizen of Watertech"*. The writer has requested that the names of Dr Savoi and Rodrigo Savoi are not mentioned on the Skyros Health letterhead. The said payment by Skyros to Watertech will be covered in a separate report as it involves third parties not involved in the water purification plants investigation. I have referred to it in this report however, as it reflects on the relationship between Dr Savoi and Shabbir, who was employed by the Department at the time as previously stated and Shabbir's link to Watertech, together with Elma Oosthuizen. H15/4
- 4) A credit transfer in the amount of R877,193 was made by Intaka Investments on 1 March 2007. Watertech invoice number 2 issued to Intaka is dated 2 February H14/2
2007. Watertech invoice number 3 issued to Intaka is dated 1 March 2007 in the H5
- amount of R877,193, however the amount subsequently paid appears to have H6
- included the VAT as discussed below.



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was completed as a formality to legitimise the receipt of R1,8 million by Shabbir and his wife Samina Hamid. Van Der Wall and Partners Attorneys provided me with additional documents relevant to the sale agreement attached hereto for ease of reference. **F21**

- 13) I further determined from the said attorneys and upon examination of the additional documents that a further amount of R166,683.82 was received by them from Stratfit cc in respect of transfer duties and related costs. I traced this payment to the Stratfit bank account that reflects a payment via cheque number 100126 in the amount of R166,683.82 on 30 October 2007. The attorney who dealt with the sale was Mr Nicolaas Gouws who has left the employment of Van Der Wall and Partners Attorneys; at the time of issuing of this report he had not provided an affidavit. **F21/32-33**  
**H14/20**
- 14) A magtape transfer in the amount of R500,000 was made by Intaka Investments on 19 December 2007. Watertech tax invoice number 5 is dated 23 May 2007 in the amount of R1,000,000. **H14/24**  
**H11**
- 15) A magtape transfer in the amount of R500,000 was made by Intaka Investments on 29 February 2008. Watertech tax invoice number 5 is dated 23 May 2007 in the amount of R1,000,000. Hence, the aforementioned 2 payments of R500,000 may be linked to tax invoice number 5 as there is no evidence from examination of the bank statements that this tax invoice was previously paid. **H14/30**  
**H11**
- 16) During the period July 2009 to May 2010 the account had very little activity and a considerable number of items were reversed as unpaid due to insufficient funds. **H14/72-**  
**H14/101**

9.096 An Experian Business Information Services enquiry determined the following in respect of Erf 3577 referred to in sub- paragraph 12) and 13) above: **B14**

- 1) Shabbir purchased the property and it was bonded at R665,000. This is confirmed in Van Der Wall and Partners Attorneys documents Deed of Transfer that reflects Shabbir purchased the property from Kenneth Paget Quinn on 23 August 2005. **F21/15-20**
- 2) The property was sold by Shabbir to Stratfit cc in the amount R1,8 million. This is confirmed per the Sale of Property Agreement signed and dated 26 September 2007 referred to in sub- paragraph 12). **F20**

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- 3) The property was purchased by Wessels Family Trust on 30 January 2010 in the amount of R1,125,000. I am not in possession of the supporting documents pertaining to the said sale, however it is evident that Stratfit sold the property at a loss in the amount of R675,000, more than 2 years after they had purchased same from Shabbir.

**B14/1**

- 9.097 For ease of reference I have summarised the Watertech invoices and above payments made by Intaka to Watertech in the table below (excluding the payment made by Skyros), which is also consistent with an explanation provided by Adriaan Loubscher, an ex- financial manager of Intaka to be discussed later in this report:

|   | Invoice/ tax invoice | Invoice amount ( R ) | Payment date | Payment amount ( R ) |
|---|----------------------|----------------------|--------------|----------------------|
| 1 | 1                    | 877,193              | 16/02/2007   | 877,193              |
| 2 | 2                    | 877,193              | 01/03/2007   | 877,193              |
| 3 | 3                    | 877,193              | 02/05/2007   | 1,000,000            |
| 4 | 4                    | 1,000,000            | 22/05/2007   | 1,000,000            |
| 5 | 5                    | 1,000,000            | 19/12/2007   | 500,000              |
| 6 |                      |                      | 29/02/2008   | 500,000              |
|   |                      | (I) 4,631,579        |              | 4,754,386            |

(I) The difference of R133,807 is the VAT on invoice 3.

- 9.098 The SAPS subpoenaed Intaka Investments (Pty) Ltd FNB bank account number 62106988150. I identified the following internet payments made by Intaka that correspond with the above payments received by Watertech:

|   | Date       | Reference            | Amount ( R ) |        |
|---|------------|----------------------|--------------|--------|
| 1 | 16/02/2007 | Watertech            | 877,193.00   | H14A/1 |
| 2 | 01/03/2007 | Watertech            | 877,193.00   | H14A/2 |
| 3 | 02/05/2007 | Watertech            | 1,000,000.02 | H14A/3 |
| 4 | 22/05/2007 | Int 18 April 2007- 5 | 1,000,000.02 | H14A/4 |
| 5 | 19/12/2007 | Watertech            | 500,000.00   | H14A/5 |
| 6 | 29/02/2008 | Watertech            | 500,000.00   | H14A/6 |
|   |            |                      | 4,754,386.04 |        |

- 9.099 A considerable number of cheques were cashed from the account of Stratfit cc during

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the period 1 March 2007 to 1 October 2008, during which time Watertech received R4,754,386 from Intaka. The cheques are for rounded amounts that in itself is unusual. Saima Shahzad was the sole signatory on the bank account, however it appears based on communication between Intaka and Watertech that Nelmarie Oosthuizen was running the day-to-day business, whilst Saima Shahzad existed in name only. I compiled a list consisting of 34 cheques in question amounting to R1,813,000. This excludes the payments in the amounts of R166,683.82 and R1,800,000 made to Van de Wall and Partners. H16

9.100 I previously in paragraph 9.098 sub- paragraph 9) referred a payment to Bennie Burger on 10 September 2007 in the amount of R3,499.80. The relevance thereof is that I determined Bennie Burger is a member of Benjamin Accounting Services cc t/a Accounting Kimberley and I pursued this in an effort to trace Saima Shahzad as her whereabouts are unknown. Benjamin Burger (Bennie Burger) was interviewed and provided the following information relevant to Watertech:

- 1) He is the auditor of Watertech and they have been his client since early 2007 when the business started trading;
- 2) The owner and sole member of Watertech is Saima Shahzad. He has never been informed of any change in membership. He never met Shahzad in person or spoke to her and always dealt with Nelmarie Oosthuizen (also known as Elma) who is the Operations Manager of the business and the primary contact person for Watertech;
- 3) Shabbir is unknown to him and he is not aware if he was ever a member of Watertech. The first time he saw documentation relating to Shabbir was when Oosthuizen requested him to add Shabbir as an employee on the payroll of Spectrum Health;
- 4) In respect of the Cashed cheques (he referred to 32 cheques amounting to R1,613,000 and I identified 2 additional cheques subsequent to Bennie Burger providing his affidavit), these cheques were processed to a cash control account or the member's loan account. This was then allocated to an expense account from the cash control account or member's loan account when details were provided by Oosthuizen. I have not had access to these records, however it is apparent that like Intaka, Benjamin Accounting Services only ever dealt with

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Oosthuizen. Bennie Burger provided an affidavit confirming the above.

**F22**

**Rehman Enterprises**

- 9.101 An Exclusive Agency Contract was completed between Intaka Northern Cape represented by Gaston Savoi and Rehman Enterprises, allegedly a legal entity registered in Pakistan, represented by Muhammad Shabbir Ahmad on 29 July 2005. This document was located in Intaka's records seized by the SAPS. A witness signature to the signature of Muhammad Shabbir Ahmad appears to be similar to that of Shabbir, based on previous signatures on documents already discussed in this report. I previously referred to Shabbir's marriage certificate and his fathers names were recorded as Muhammad Shabbir Ahmad, hence Intaka Northern Cape entered into an Agreement with a person who I believe is Shabbir's father This agreement was signed after the first 2 water purification plants were awarded by the Provincial Tender Board on 23 June 2005 to Intaka Northern Cape and the issuing of official order numbers D 747867 and D 747868 on 29 June 2005. **H17**
- 9.102 The Agreement relates to the marketing of Intaka Northern Cape potable water service products by Rehman Enterprises in the Islamic Republic of Pakistan, United Arab Emirates and India.
- 9.103 I identified the following documents amongst the documents seized by the SAPS from Intaka relating to Rehman Enterprises: **H18**
- 1) An e-mail from Shahzad to [info@intaka.com](mailto:info@intaka.com) dated 28 August 2006 08:57 pm. The subject is "invoices" and the body "Amigo attached are the invoices as requested"; **H18/1**
  - 2) A fax cover page from Adriaan Laubscher of Intaka to FNB dated 12 September 2006; he refers to an invoice attached and the rand amount he would like to pay of R1,315,789.47; **H18/2**
  - 3) A Rehman Enterprises Invoice for "Marketing and Advertising" dated 28 May 2006 addressed to Intaka for "Professional services rendered in Pakistan" in the amount of 187,969.92\$USD; **H18/3**

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- 4) A Rehman Enterprises Invoice for "Marketing and Advertising" dated 28 June 2006 addressed to Intaka for "Professional services rendered in Pakistan" in the amount of 187,969.92\$USD; **H18/4**
- 5) A letter on a Rehman Enterprises letterhead addressed to Dr Savoi providing their bank account details; **H18/5**
- 6) A Rehman Enterprises Invoice for "Marketing and Advertising" dated 31 July 2006 addressed to Intaka for "Electronic Media" in the amount of 140,000\$USD; **H18/6**
- 7) A Rehman Enterprises Invoice for "Marketing and Advertising" dated 26 June 2006 addressed to Intaka for "Newspaper Adverts" in the amount of 140,000\$USD; **H18/7**

9.104 I further identified an e-mail in the electronic records of Shabbir seized by the SAPS, dated 23 August 2006 12:24pm from Dr Savoi to Shabbir titled "PRIVATE AND CONFIDENTIAL": *"Dear amigo the invoices from Rehman Enterprises must be each one for a total amount based on R877,193.00 and as description it will be better to put "professional services rendered in Pakistan". Please send me the revised invoices"*. **H18/9**

9.105 The SAPS subpoenaed Intaka Investments (Pty) Ltd FNB bank account number 62106988150. I identified the following 2 Forex Sale Transaction; the amounts are in terms of Laubscher's fax to FNB dated 12 September 2006, referred to in sub-paragraph 2) above. **H18/2**

|   | Date       | Reference              | Amount ( R ) |              |
|---|------------|------------------------|--------------|--------------|
| 1 | 13/09/2006 | Med Sha Bbir Ahmed     | 1,315,789.47 | <b>H18/8</b> |
| 2 | 18/09/2006 | Star R Eal Estate Brok | 1,315,789.47 | <b>H18/8</b> |
|   |            |                        | 2,631,578.94 |              |

**Interview with Adriaan Laubscher**

9.106 I conducted an interview with Adriaan Laubscher (Laubscher) who was employed as the financial manager at Intaka Manage (Pty) Ltd from October 2005 to March 2008. He resigned in October 2007, but stayed on until March 2008, the last three months

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of which were in a consulting capacity.

9.107 He provided the following information to me relating specifically to the sale of the water purification plants by Intaka to the Northern Cape DOH and the role of Watertech, Shabbir and Madyo:

- 1) Shabbir was the CEO of the Kimberly Hospital. He came to the Intaka offices in Cape Town on about five times that he knew of. He also once met Shabbir and Gaborone, the CFO for Health in the Northern Cape, in Bloemfontein to discuss appointing an agent to collect money due to Intaka by the Department of Health
- 2) Dr Savoi told him that commission of R2 million per Wataka was to be paid on the additional 8 Watakas sold to the Northern Cape DOH. This commission was to be split equally between Shabbir and Madyo. Block was not part of this deal (he was involved in the first 2 water purification plants for Colesberg and Calvinia and will be referred to later in this report). The money due to Shabbir was R8 million. The money due to Madyo had not been paid when he left Intaka as Madyo was worried that he was under investigation at the time the commission was earned and did not want to have to explain where he got this money from.
- 3) R5million of the money due to Dr Shabbir was paid in to Watertech; he suspected the remaining R3million was paid to Rehman Enterprises, comprising two amounts of R1,315,789.47 each.
- 4) The invoices provided to support this payment stated that they are for "Professional services rendered in Pakistan" in the amounts of \$187,969.92 each. He did not specifically recall what Dr Savoi said about these invoices but he suspected that they were for the commission due to Dr Shabbir on the first three Watakas. The amount paid in Rand was two payments of R1 315 789.47 which is two payments of R1.5 million less VAT. The US Dollar equivalent of these payments was the \$187,969.92 that the Rehman Enterprises invoices were made out for.
- 5) He was not involved in setting up Watertech. Dr Savoi dealt with Watertech. Copies of two of the Watertech invoices against which payments were made are in the amounts of R877,193 each. He was uncomfortable about these payments but never spoke to Dr Savoi about this but discussed it with Raoul de Lange

H24

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(Intaka in-house attorney). The invoices are for R877,193 and not the full R1 million as Watertech was not registered for VAT and as Intaka could not claim the input VAT they paid them the amount due (R1 million per Wataka) less VAT. As far as he could recall the remaining R3million was paid to Watertech as well.

- 9.108 Laubscher provided an affidavit that includes the information detailed above. He informed me that prior to resigning from Intaka a number of transactions that resulted in payments to various entities came to his attention that made him suspicious and that entities in the Intaka Group were involved in some irregular activity. As a result of his concerns, on 14 March 2007 he scanned e-mailed copies of some of the documents supporting the suspicious payments to an external e-mail address where he later retrieved the e-mails. He attached copies of these documents to his affidavit and discussed them. F24

**Hamid Shabbir ABSA bank account number 940174805**

- 9.109 The aforementioned bank account was subpoenaed by the SAPS. This was Shabbir's account into which his salary was paid by Northern Cape DOH. It is evident upon examination of the bank statements that Shabbir had another source of income other than that received from the department during the period he was still employed by the department. Further, it is evident based on funds in and out of this account that he holds other bank accounts that I have not had access to. Hence, I have not performed a detailed investigation into this account and other bank accounts held by Shabbir. I identified fourteen (14) x payments into the account in question amounting to R207,000 made up of rounded amounts, during the period 05/05/2006 to 28/05/2008 when he was still employed by the department (he resigned on 20 August 2008). H38

**Mapquest Trading (Pty) Ltd**

- 9.110 I determined upon examination of documents seized from Madyo's premises that Intaka corresponded with and entered into business transactions with an entity known as Mapquest Trading (Pty) Ltd (**Mapquest**) as discussed hereunder:



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- 1) On 21 November 2006 Intaka sent a letter to Deon Madyo, Executive Director, Mapquest, Rustenberg on 21 November 2006 iro a request for a presentation by Intaka of their services. Madyo was in initial introductory discussions with Dr Savoi, Block and Shabbir and he signed both Submissions on 20 June 2005 and 24 April 2006 respectively as HOD, prepared by Mitha dated 17 June 2005 and 24 April 2006, and sent to the Provincial Tender Board. He resigned from the Department on 4 August 2006, prior to the letter in question. H19
- 2) On 30 November 2006 Intaka and Madyo of Mapquest entered into an Agency Agreement to promote, market and sell Oxyntaka's and Wataka's in the North West and Limpopo Province i.e. not the Northern Cape. The registration number of Mapquest is recorded as 2006/016908/07. A Kreditinform Enquiry determined that Mapquest Trading (Pty) Ltd with the said registration number was registered on 1 June 2006. The sole active principal is Danile Deon Madyo (Madyo) with effect from 29 June 2006. One of his current business interests in Sakhiwo Health Solutions (Sakhiwo Health) to be referred to below in more detail. H20  
B11
- 3) A Mapquest Tax Invoice dated 1 October 2007 in the amount of R336,140.91 refers to "Marketing and product promotion Wataka & Oxyntaka Limpopo" The bank details are recorded as: Mapquest, ABSA Bank, account no: 4065783726. H21
- 4) The said bank account was subpoenaed by the SAPS. I determined that the account is held in the name of Mapquest Trading (Pty) Ltd and was opened on 20 July 2006. I have not been provided with the opening documents and signature card. For purposes of this report I am not going to attach the bank statements in their entirety and will only attach those relevant to this investigation. The first significant deposit was recorded as a Credit Transfer "Karibuni Loan Mapquest" in the amount of R650,000 on 4 August 2008 i.e. after Madyo had left the Northern Cape DOH. I identified 3 payments from Intaka Investments as detailed below: H22/1  
H22/1

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|   | Date        | Amount ( R ) |
|---|-------------|--------------|
| 1 | 30/04/2007  | 50,000.00    |
| 2 | 12/10/2007  | 336,140.91   |
| 3 | 17/01/2008  | 286,128.50   |
|   | Total ( R ) | 672,269.41   |

H22/2

H22/3

H22/4

- 5) The said payments were made after Madyo resigned from the Northern Cape DOH. The 2<sup>nd</sup> payment appears to relate to services provided in Limpopo as detailed in the Mapquest invoice above. Loubser provided me with a copy of the first invoice dated 12 December 2006 and it also relates to services in Limpopo for oxyntaka. In sub-paragraph 2) above I referred to Sakhiwo Health. The 1<sup>st</sup> payment received by Mapquest from Sakhiwo Health was on 25 June 2008, attached hereto for ease of reference. The relevance is that I would later determine Mitha was employed by Sakhiwo Health after he left the Northern Cape DOH and hence his continued relationship with Madyo. H23
- 6) A document titled "Cash Requirements" located in the electronic records of Intaka, refers to the background into the cash requirements and a meeting held on 11 December 2007. On page 3 of the document the following is recorded: H22/5
- "There is also a Commission due to Mr Deon Madyo of approximately R8million (Vat included) which is still outstanding and which has not been brought into the table above as it is uncertain as to when the money will be paid. This commission is due for the provision of 8 Watakas to the Northern Cape. There is also a commission due to Watertech of R500,000".* Hence, the commission of R8million was not due to Deon Madyo for the North West and Limpopo Provinces as envisaged in the Agency Agreement referred to a payment to in sub-paragraph 2) above. On page 6 the document is dated 19 February 2008 beneath the name MG Erasmus. Erasmus confirmed to me that he prepared this document. I have already referred to a payment to Watertech by Intaka in the amount of R500,000 on 29 February 2008 i.e. consistent with the above and within 10 days of the date of the document. I have examined the Mapquest account statements and have not identified any payments subsequent to 19 February 2008 from Intaka (the last being on H24

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17/01/2008 as detailed in the table above. The R8 million due to Madyo by Intaka for the additional 8 water purification plants was confirmed by Laubscher as previously discussed.

- 9.111 The SAPS subpoenaed Intaka Investments (Pty) Ltd FNB bank account number 62106988150. I identified the following internet payments from Intaka to Mapquest that corresponds with the amounts received by Mapquest as detailed in sub paragraph 4) above:

|   | Date       | Amount ( R )      |
|---|------------|-------------------|
| 1 | 30/04/2007 | 50,000.00         |
| 2 | 12/10/2007 | 336,140.91        |
| 3 | 17/01/2008 | 286,128.50        |
|   |            | <b>672,269.41</b> |

H22/6

H22/7

H22/8

**8. Intaka Northern Cape and Chisane Investments: links to Intaka and commission payments for sales from Intaka**

- 9.112 I previously discussed Intaka Northern Cape being linked to Intaka; the former submitted the quotations, whilst the latter received the payments for the 10 water purification plants; and the involvement of John Block. I identified a number of documents seized by the SAPS at the premises of John Block, 10 Golden Gate Street, Cartes Glen, Kimberley relevant to Intaka Northern Cape and Chisane Investments. I have already referred to some of these documents iro Intaka Northern Cape in this report and they summarised hereunder for ease of reference:

- 1) Inaugural meeting of Tarree Investments (Intaka Northern Cape on 2 March 2005; E1
- 2) Two (2 ) x Northern Cape DOH order numbers D 747867 and D 747868 dated 29 June 2005 in the amounts of R2,015,000 and R1,935,720 respectively; D8/1-2
- 3) An Agenda for Intaka Northern Cape Board meeting to be held on 3 August 2005; D8/3-4
- 4) Two (2) x Intaka Northern Cape tax invoices issued to the Northern Cape DOH dated 1 September 2005 in the amounts of R2,015,000 and R1,935,720 respectively; and D8/5-6

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- 5) A request for payment by Intaka Northern Cape to the Northern Cape DOH dated 7 September 2005, to be made to a designated Intaka bank account. D8/7

9.113 I wish to refer to the following additional documents located at the premises of Block as they will be again referred to in my interview with Laubscher:

- 1) Chisane Investments Invoice number CHI003 is dated 31 June 2005 (June has only 30 days) and addressed to Eugene Hope. It refers to "Consultancy Services provided in the Northern Cape Province" in the amount of R139,707. It reflects John Block as Company Director. H25
- 2) Chisane Investments Invoice numbers CHI008 and CHI010 dated 14 September 2005 and 29 November 2005 are addressed to Eugene Hope. They refer to "Consultancy Services provided in the Northern Cape Province" in the amounts of R187,986 and R62,814 respectively. The invoices reflect John Block as Company Director. H26/1-2

9.114 I also located the following document in the records of Intaka seized by the SAPS

- 1) On 4 April 2006 John Block, Company Director Chisane Investments sent a fax and 2 invoices to Intaka Investments in respect of "Sales Commission due for Services rendered in Northern Cape Province", in the amounts of R85,000 and R80,000 respectively. The bank details provided is ABSA Bank Chisane Investments, City Centre, Kimberley, cheque account number 4060501886, branch code 500902. H27/1-3
- 2) A document that reflects that commission was payable to John Block for sales by Intaka Northern Cape. The first sale of R1,698,000 being the invoice amount (R1,935,720) excluding VAT (R237,720) of the water purification plant supplied to Calvinia Hospital a commission of R80,000 was payable; and the second sale of R1,768,000 being the invoice amount (R2,015,720) excluding VAT (R247,520) of the water purification plant supplied to Colesberg Hospital a commission of R85,000 was payable. This amounts to commission of 4.7% and 4.8% of the sale amounts exclusive of VAT. H28

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- 9.115 A Kreditinform Enquiry determined that Chisane Investments (Pty) Ltd with registration number 2004/004027/07 was previously known as Sage Wise 117 and was registered on 18 February 2004. The sole Active Principal appointed 8 March 2004 is Block. B12

**Interview with Laubscher**

- 9.116 I previously referred to my interview with Laubscher. He provided the following information to me relating specifically to the sale of the water purification plants by Intaka to the Northern Cape DOH and the role of Intaka Northern Cape, Block and Chisane Investments:
- 1) John Block was initially Dr Savoi's contact in the Northern Cape. He knew that Block was the leader of the ANC in the Northern Cape. Block was initially involved in Health and then mainly in the various municipalities. He did not specifically know what the commission payments of R139 707, R187 986 and R62 814 were for, but he did suspect that they were for playing an intermediary role with customers in local and provincial government in the Northern Cape. H25,H26/1  
-2
  - 2) On Dr Savoi's instruction he prepared a schedule which sets out how the profit on the Wataka's sold in the Northern Cape would be split as 30% commission to Block and 70% as Management fee to Intaka. Dr Savoi told him that this schedule was to show Block what his share of the profit was and how it was calculated. The signature on this document is that of Dr Savoi and is dated 13 April 2006. As far as he could recall Block was at Intaka's offices when he prepared this schedule. H28
  - 3) He later received a fax from Chisane Investments, which was Block's company, and pages 2 and 3 of the fax were Chisane Investments invoices for R80 000 and R85 000. These invoices were for Block's commission on the first 2 Wataka's purchased by the Northern Cape Department of Health for the hospitals in Calvinia and Colesberg. The amounts on the invoices are for the same amount as set out on the schedule he prepared on Dr Savoi's instruction (refer sub-paragraph 2) above. An invoice for a third Wataka in the Northern Cape was also received from Block in the amount of R136,000. This was also in terms of the H27/1-3  
H28  
H29/1

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schedule he prepared for Dr Savoi being R120,000 (R136,000 less VAT) but he was not sure which Wataka it related to. The correct amount of the invoice should read R136,800, which is in terms of the copy provided to me by Laubscher where a suitable endorsement has been made, however the payment receipt reflects R136.000.

H29/1

H29/2

- 4) As far as he could recall Dr Savoi informed him that the invoice from Chisane Investments for R456 000, dated 15 August 2006 was a once off payment to Block for the oxygen contract for the first 7 hospitals that signed a contract for the Oxyntaka machines. This will be discussed by me in a separate report with regard to the Oxyntakas purchased by Northern Cape DOH from Intaka, but attached and referred to for ease of reference. The invoice was located in the documents seized by the SAPS from Intaka.

H30

**Chisane Investments (Pty) Ltd ABSA Bank account number 4060501886**

- 9.117 The aforementioned bank account was subpoenaed by the SAPS. The bank has stated that they were unable to locate the opening documents as per the FICA Centre. I have been provided with bank documents with effect from 1 January 2006 only. I identified the following payments that I have linked to 4 Chisane Investments invoices issued to Intaka for payment; the remaining 3 invoices were issued in 2005 and as stated above I do not have bank statements prior to 1 January 2006:

- 1) On 19 April 2006 "ACB Credit Inv. CHI025" in the amount of R136,000. This is consistent with Chisane Investments invoice number CHI025 in the amount of R136,000. In terms of Laubscher's explanation this was for a 3<sup>rd</sup> unknown Wataka. The balance of the account prior to the said deposit was -R4,689.96.
 

H31/1  
H29/1-2
- 2) On the same day 19 April 2006 "ACB Credit Inv. CHI023/ HI024" in the amount of R188,100. Chisane Investments invoice numbers CHI023 and CHI024 in the amounts of R85,000 and R80,000 respectively amounts to R165,000 inclusive of VAT per the invoices. Laubscher provided me with 2 more Chisane Investments invoices: CH1023 and CH1024 in the amounts of R85,000 excluding VAT (R96,900 inclusive of VAT) and R80,000 excluding VAT (R91,200 inclusive of VAT). These amounts total R188,100. Laubscher also provided me with a
 

H31/1  
H27/2-3  
  
H31/6-7

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- 
- Standard Bank payment receipt confirming the payment of R188,100 on 18 April 2006 by Intaka to Chisane Investments. These payments were commissions for the Wataka's commissioned at Colesberg and Calvinia Hospitals. Intaka Standard Bank account number 071878890 reflects payments in the amount of R136,000 and R188,100 respectively on 18 August 2006. This statement was located in the Intaka records seized by the SAPS, H31/8
- 3) On 24 August 2006 "ACB Credit Intaka Investments" in the amount of R456,000. H31/2  
 This is consistent with Chisane Investments invoice number CHI0018 in the amount of R456,000. In terms of Laubscher's explanation this was a once off H30  
 payment to Block for the oxygen contract for the first 7 hospitals that signed a contract for the Oxyntaka machines. Intaka FNB account number 62106988150, subpoenaed by the SAPS reflects an Internet payment on the same day 24 H31/4  
 August 2006 in the amount of R1,045,380; the reference is Chisane Investments. However, I located a copy of this statement in the Intaka records seized by the H31/5  
 SAPS and it contains the following handwritten note alongside "Chisane Investments": "R456,000-00, Skyros Man fee & Rental R589,380", which confirms the payment to Chisane Investments in the amount of R456,000.

**9. Yadhav Investments**

- 9.118 I received information and it was confirmed to me by Laubscher that Mitha was contracted by Intaka to recover debt for Intaka. He informed me that the Department of Health did not pay Intaka on time for the monthly oxygen invoices. He spoke to Gaborone about this on numerous times. Raoul de Lange was involved in setting up an agreement with a collection company, involving Mitha who had left the Department of Health at the time. He believed this arrangement was above board as Mitha was no longer employed by the Department of Health.
- 9.119 Laubscher added that he flew to Bloemfontein with de Lange to meet with Mitha. However, Shabbir and Gaborone attended the meeting and Mitha was not there. Shabbir said he was mandated on behalf of Mitha to speak on his behalf. Laubscher was not comfortable with this and thought it strange that Shabbir and Gaborone who were from the department of health were involved in setting up a company to collect

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debts due by Health to Intaka. Mitha was paid up to a point, in terms of a contract with him, for his involvement in collecting money due to Intaka.

- 9.120 The following electronic records and hard copy documents seized by the SAPS are relevant to Mitha, Yadhav Investments and Intaka:
- 1) An unsigned Agency Agreement effective 14 November 2007, between Intaka and Yadhav Investments cc to "*facilitate expeditious approval, uploading and payment management process*" to Intaka by the Department of Health, Northern Cape, for the 32 medical oxygen and medical air generating units installed at 32 hospitals. The commencement date is recorded as 14 November 2007. H32
  - 2) On 17 April 2008 Intaka sent a letter to Sanjay Mitha and referred to the Agency Agreement executed on 19 November 2007. He was notified that he has persistently failed to ensure that payments are received by Intaka in a timely manner, despite full commissions being paid to the Agent. They further advised him of a breach of the agreement and that Intaka reserved the right to terminate the Agreement in the event that the Agent (Yadhav) fails to ensure that payments are rendered in accordance with the terms of the Agreement. H33
- 9.121 I examined the electronic records seized by the SAPS from Intaka. I identified 9 Remittance Advice's that reflect nine (9) x payments were made to Yadhav Investments by Intaka amounting to R610,657.70 during the period 8 February 2008 to 17 December 2008. H34
- Yadhav Investments cc Standard Bank account number 040091732**
- 9.122 The aforementioned bank account was subpoenaed by the SAPS. I determined that the account was opened on 26 June 2006 and the sole signatory is Mitha. The type of business is recorded as "Distributor of steel and cement". One of his references is "Dr Shabir" whose cellular number is recorded as 083 411 9017; this is the same number provided to the bank for Shabbir as a reference in the Stratfit cc application form to open a bank account. I examined the bank statements of Yadhav Investments and identified twenty (20) x payments from Intaka to Yadhav H35/2-6  
H13

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Investments amounting to R1,544,315.52 during the period 18 December 2007 to 16 April 2010. The balance on the account as at 10 June 2010 is -R79.12. I further determined that a Cheque deposit was made by "Kim Corp 960 cc" in the amount of R10,000 into the Yadhav Investments bank account on 6 February 2008. This occurred during the period of the 1<sup>st</sup> and 2<sup>nd</sup> payment received from Intaka. The balance on the account was R10,401.80 before the cheque was deposited and R10,306.68 prior to receipt of the 2<sup>nd</sup> Intaka payment; and hence there were funds available. I previously referred to Kim Corp 960 cc and that Shabbir and Maqbool are active principals.

H35/1

H35/12

9.123 It is evident that the vast majority of payments into this account were made by Intaka, and there is no indication that this account was used for purposes of receiving income for the conducting of business as a "Distributor of steel and cement". This brings into question and places significant doubt as to exactly what Mitha was doing for Intaka that could speed up payments to Intaka by the Northern Cape DOH; that Gaborone the CFO of the Department could not have done and further Gaborone and Shabbir representing Mitha had attended a meeting with Intaka beforehand and were involved in setting up Mitha's company to collect debts.

9.124 In addition to this I determined that one of the main reasons why the hospitals were refusing to pay Intaka was because they were not happy to pay a guaranteed minimum amount for oxygen per month to Intaka that far exceeded the actual usage. Hence, this was an issue that should have been resolved internally by the Department and specifically by Gaborone as CFO and not by Mitha an outsider. Gaborone was in a position of strength and should have acted in the best interests of the Department. He may have requested Intaka for example to pass on the anticipated fees to be earned by Mitha to the Department as a savings, on condition he ensured Intaka were paid in a timely manner by his Department. Based on Shabbir's link to Watertech and his close relationship with Mitha in the obtaining of the fraudulent quotations and Submissions to the Tender Board, it is my submission that this was just another method of obtaining payments that were not due to Mitha, aided by Shabbir who was also not acting in the best interests of the Department.

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References in the margin refer to  
 appendix numbers

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**SK Mitha ABSA Bank account number 4072874140**

- 9.125 The aforementioned bank account was subpoenaed by the SAPS. Based on the bank statement number 1 provided by ABSA it would appear that the account was opened on 21 November 2008 as it reflected a nil balance at the said date and the SAPS had subpoenaed the bank statements from 1 January 2006. I previously referred to Sakhiwo Health, an entity linked to Madyo. I determined upon examination of Mitha's bank account that he received a monthly salary payment from Sakhiwo Health. I identified eighteen (18) x payments from Sakhiwo Health to Mitha amounting to R613,246.80 during the period 19 December 2008 to 26 May 2010. During the same period he was receiving payments from Intaka as discussed above.
- H36/2  
H36/1

**SK Mitha Standard Bank account number 143891081**

- 9.126 The aforementioned bank account was subpoenaed by the SAPS commencing 1 January 2006. I have attached the bank statements received in their entirety as the only significant deposits were those identified as detailed in the table below, during which time Mitha was employed by Northern Cape DOH (his last working day was 30 June 2007):
- H37

|   | Description             | Date       | Amount ( R ) |        |
|---|-------------------------|------------|--------------|--------|
| 1 | Cash deposit S Mitha    | 04/01/2006 | 30,000       | H37/1  |
| 2 | Cash deposit S Mitha    | 17/01/2006 | 10,000       | H37/1  |
| 3 | Cheque deposit SK Mitha | 27/06/2006 | 50,000       | H37/6  |
| 4 | Cheque deposit SK Mitha | 15/01/2007 | 20,000       | H37/14 |
|   |                         |            | 110,000      |        |

- 9.127 The said deposits appear not be salary related. The closing balance on the account as at 30 June 2008 was nil.

**10. Site visits**

- 9.128 I visited two (2) x sites in the Northern Cape Province on 6 October 2010, where

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Intaka installed 2 of their water purification plants; being Kimberley Hospital and Barkly West Hospital (old hospital complex). Photographs were obtained and attached hereto. The following was determined:

J5

- 1) The plant at Kimberley Hospital complex was commissioned and was operational after commissioning, however it is currently not operational. Photographs 1- 5 relate to Kimberley Hospital. J5/1-5
- 2) The plant at Kimberley hospital has an identification plate of Grotto Defranceschi with job number 2464 attached to the storage tank, indicating this is a Grotto plant. The water inside the water tank is green indicating the plant is not operational. Further, the water pump fitted to the plant is a Westpro pump. J5/3  
J5/4  
J5/5
- 3) The plant was installed at the old Barkly West Hospital site. It was never switched on nor been operational as a new hospital Professor ZK Matthews was built at the time. This was confirmed by Halvey and Saltwater. Hence, fruitless expenditure in the amount of R4,8 million. Photographs 6- 10 relate to Barkly West Hospital. J5/6-10

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**Summary of Findings**

- 9.129 Detailed below is a summary of significant findings from the investigation conducted into the procurement of Water Purification Plants by the Northern Cape DOH from Intaka:
- 1) Intaka Northern Cape, an entity based in the Western Cape, received two orders in the amounts of R2,015,000 and R1,935,720 on 29 June 2005, for the supply of two Water Purification Systems from the Department, for Colesberg and Calvinia Hospitals. D8/1-2
  - 2) The awarding of the said order was approved by the Provincial Tender Board on 23 June 2005 in terms of Practice Note number SCM 2 of 2005. This occurred after the Northern Cape DOH made an application for a deviation from calling for competitive bids for purchases above the threshold of R200,000 as prescribed, based on a Submission from Mitha to the Provincial Tender Board dated 17 June 2005. The said Submission was signed by Gaborone, Madyo and Selao. In terms thereof the Department had received three quotations:
    - i. High- Tech Packaging R3,445,000; D2
    - ii. Forgeweld Stainless R3,190,700; D3
    - iii. Intaka Northern Cape R2,015,000 (Colesberg) and R1,935,720 (Calvinia). D4
  - 3) Mitha concluded the Submission by recommending Intaka Investment as opposed to Intaka Northern Cape who submitted the quotation, as they submitted the lowest quoted price. The address of Intaka Northern Cape recorded on their quotation is however the address of Intaka in the Western Cape and payment was subsequently made to the latter. D4
  - 4) The aforementioned Submission would indicate that the SCM Unit, whose duty it is to source quotations and procure goods and services, were involved in this process and further that the said quotations are deemed to be three independent competitive quotes.
  - 5) I determined that the High- Tech Packaging and Forgeweld Stainless quotations are fraudulent; neither of these 2 entities are involved in the manufacture or distribution of water purification plants and the owners and/or signatories of the said entities denied issuing the quotations in question. High-Tech Packaging is F1/F3/F4

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- based in Gauteng and their core business is packaging, whilst Forgeweld Stainless from the Western Cape stopped trading in the year 2000. Romani was the Managing Director of Forgeweld until it stopped trading.
- 6) Praderi was informed by John Block on 20 May 2005 that the procurement of the water purification plants was going to be the subject of a closed tender and hence an arrangement between himself John Block, Dr Savoi, Madyo and Shabbir prior to Mitha's submission to the tender board dated 17 June 2005. J1/5
  - 7) The fraudulent High- Tech Packaging and Forgeweld Stainless quotations were couriered by Intaka to John Block on 6 June 2005, prior to Mitha's Submission dated 17 June 2005. This occurred after John Block and Dr Savoi colluded in obtaining the two quotations. J2  
J1/6-7
  - 8) Intaka an entity based in the Western Cape, received eight (8) x additional orders in the amounts of R4,800,000 during June 2006, for the supply of eight Water Purification Systems from the Department, for Hospitals within the Northern Cape Province. C2-C9
  - 9) The awarding of the said order was approved by the Provincial Tender Board on 18 May 2006 in terms of Practice Note number SCM 2 of 2005. This occurred after the Northern Cape DOH made an application for a deviation from calling for competitive bids for purchases above the threshold of R200,000 as prescribed, based on a Submission from Mitha to the Provincial Tender Board dated 24 April 2006. The said Submission was signed by Madyo. In terms thereof the Department had received three quotations: D13  
A2  
D9
    - i. High- Tech Packaging R3,445,000; D10/9-10
    - ii. Forgeweld Stainless R3,190,700; D10/5-8
    - iii. Intaka Northern Cape R2,015,000 D10/11-12
  - 10) Mitha added to the Submission that the above are previous quotations, the Department was satisfied with the work done by Intaka and that the Department required approval for the additional water plants to be installed at the other revitalized sites. Mitha concluded the Submission by recommending Intaka Investment as opposed to Intaka Northern Cape who submitted the quotation, as they submitted the lowest quoted price. D9  
D9/3
  - 11) The Provincial Tender Board approved the Submission at a fixed cost of R2,015,520 or less for sites closer to the company's base and on the basis that D14

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- any price increase should result in the department testing the market. This condition was repeated in a letter from the Provincial Tender Board to Mitha dated 19 May 2006. I have already referred to and determined that these quotations were fraudulent.
- 12) Three quotations were subsequently obtained by the Department to test the market:
- i. Intaka Investments R4,800,000; C2/6
  - ii. Westpro Fluid Handling Systems (Pty) Ltd R6,195,000; C2/7
  - iii. Forgeweld Stainless (Pty) Ltd R5,680,000. C2/8-9
- 13) Two of the quotations are dated 25 May 2006, whilst the Westpro quotation is undated, i.e. within a week of the Provincial Tender Board approving the deviation in the amount of R2,015,000 on 18 May 2006. I determined that the Westpro and Forgeweld Stainless quotations are fraudulent; neither of these 2 entities are involved in the manufacture or distribution of water purification plants and the owners and/or signatories of the said entities denied issuing the quotations in question. Westpro distributes pumps, whilst Forgeweld Stainless from the Western Cape stopped trading in the year 2000 as previously stated. F6
- Romani was the Managing Director of Forgeweld until it stopped trading and it appears to be his signature appearing on the fraudulent quotation. Geddes of Westpro denied knowledge of the quotation, but was not certain whether it was his signature appearing thereon; whilst Romani admitted that he did submit the quotation and that it is his signature appearing thereon. F8
- 14) Copies of the fraudulent Westpro and Forgeweld Stainless quotations and the Intaka quotations were located in Intaka records seized by the SAPS. They were faxed to Shabbir on 26 May 2006 at 16:47. The fraudulent Westpro quotation and the Intaka quotation was e-mailed to Shabbir's private e-mail address on 25 May 2005 at 15:50 in terms of the electronic records of Intaka seized by the SAPS. J3
- 15) The aforementioned fraudulent quotations were never presented to the Provincial Tender Board for further approval for deviation from tender procedures and for the board to approve the price increase of approximately 140%. Mitha instructed the responsible official to issue the orders after the official questioned the price increase and Mitha advised her that "the market had been tested". J4
- 16) I determined from Gerrans of Grotto that they were commissioned by Intaka to F18/F19
- F15
- F2
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build 30 complete 'Wataka' water purification units. These plants were completed by the end of 2006. The first two plants were (unilaterally) discounted by some 50% by Romani, ostensibly as Grotto's contribution to developing this new product. Subsequent plants were sold to Intaka for between R412,000 and R475,000, the price variance being the result of fluctuating steel prices and some specification changes relating to the control system of the plants.

- |   |         |
|---|---------|
| 17) Gerrans stated further that an additional approximately R250,000 for transport and commissioning is normally incurred. Hence, Grotto's price for one water purification plant would have been a maximum of R725,000. Intaka charged the Department R2,015,000 and R1,935,720 per plant for the 1 <sup>st</sup> two plants and R4,800,000 per plant for the subsequent eight plants.   | F2      |
| 18) Gaborone authorised 4 of the 8 payments that are available and checked and verified the payments to be correct on 3 of the remaining 4 payments, where he had not authorised payment. The amount of the order had increased from R2,015, 000 to R4,800,000; A cursory review of the documents attached to the "Order Payment Transaction" form would have alerted even a person with no financial background that the prices had been significantly inflated subsequent to the Tender Board Approval. | C2-C9   |
| 19) The collusive behaviour amongst Dr Savoi, John Block, Madyo, Shabbir, Mitha, Gaborone, Geddes and Romani, has been designed to establish bid prices at artificial non- competitive levels and to deprive the Department of the benefit of free and open market competition.   |         |
| 20) Shabbir, Saima Shahzad and Nelmarie Oosthuizen conspired to set up a bogus company Watertech. The main purpose was to receive undue benefits from Intaka in the form of commission's payable for alleged services rendered in respect of the sale of the additional 8 water purification plants by Intaka to Northern Cape DOH. These undue payments amount to R4,754,386.  | H1-H16  |
| 21) Based on a number of cheques cashed by Watertech it is evident that Shabbir, Saima Shahzad and Nelmarie Oosthuizen laundered the proceeds of the undue benefits received from Intaka through this account.  |         |
| 22) Shabbir further obtained additional undue payments for the first 2 plants purchased through Rehman Enterprises an entity registered in Pakistan by Shabbir's father Muhammad Shabbir Ahmad. These payments amount to  | H17-H18 |

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R2,631,578.94.

- 23) Laubscher has alleged that it was agreed that Shabbir would receive R8million from Intaka for the 10 water purification plants under investigation. The payments referred to in sub- paragraph 20) and 22) above amount to R7,385.964.94 if VAT is added to payments where it was deducted by Intaka the amount paid will be R8million.
- 24) Laubscher further alleged that Intaka agreed to pay Madyo R8 million in undue payment for the water purification plants under investigation. Although this R8 million had not been paid when he left Intaka as Madyo was concerned that he was under investigation The Intaka financial records reflect the said payment was due to Madyo "for the provision of 8 Watakas to the Northern Cape". I have not traced any payment to Madyo relating to this entry, however Intaka made 3 payments to Madyo through Mapquest during the period 30 April 2007 to 17 January 2008 amounting to R672,269.41, after Madyo has resigned from Northern Cape DOH. H24  
H22
- 25) John Block received 2 undue payments through Chisane Investments from Intaka amounting to R188,100 for commission on the sale of the first two water purification plants. He further received a payment in the amount of R136,000; Laubscher alleged that this was for a 3<sup>rd</sup> water purification plant the site of which is unknown to him. . Block received a further payment of R456,000 from Intaka that I have not linked to the water purification plants'. Laubscher alleged as far as he could recall Dr Savoi informed him that the payment was for the Oxygen plants purchased by Northern Cape DOH. H31/1  
H31/1  
H31/2
- 26) Mitha received twenty payments from Intaka through Yadhav Investments amounting to R1,544,315.52 during the period 18 December 2007 to 16 April 2010; after he had left the Department. These payments were alleged to have been made to Mitha based on an Agreement between Yadhav Investments and Intaka to facilitate the approval, uploading and payment management process of payments due to Intaka by the Northern Cape DOH. It is my submission that Mitha benefited as a direct result of his complicity in a corrupt and fraudulent procedure that he was instrumental in setting up and carrying out. During the period Mitha received these payments he was employed by Sakhiwo Health; an entity linked to Madyo. He received eighteen (18) x salary payments from H35/1

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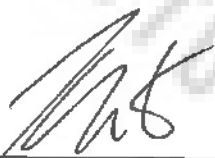
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Sakhiwo Health amounting to R613,246.80 during the period R19 December 2008 to 26 May 2010.

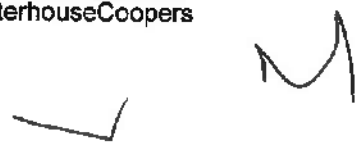
**H36/1**

27) It would appear in addition that Madyo, by approving the engagement of Intaka to supply water purification plants for the ten hospitals in question, contravened:

- The provisions of section 217 of the constitution of the Republic of South Africa Act 108 of 1996 in that:
  - He failed to follow a procurement system which is fair, equitable, transparent, competitive and cost effective.
- Section 38(1)(a)(b)(c) of the PFMA in that she failed to:
  - Maintain effective, efficient and transparent systems of financial risk management and internal control;
  - Implement an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective;
  - Ensure that processes and procedures were in place for the effective, efficient, economical, and transparent use of the institution's resources; and
  - Exercise reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure.



**T S White**  
**Director: Forensic Services**  
**12 October 2010**



# 10



TSW 10

In the matter between:

KIMBERLEY CAS02/05/2010

THE STATE

And

GASTON SAVOI

SANJAY MITHA

DANILE DEON MADYO

JOHN BLOCK

DANIEL GABORONE

INTAKA NORTHERN CAPE (PTY) LTD

INTAKA INVESTMENTS (PTY) LTD/ INTAKA TECH (PTY) LTD/ INTAKA

HOLDINGS (PTY) LTD

CHISANE INVESTMENTS (PTY) LTD

YADHAV INVESTMENTS

ACCUSED 1

ACCUSED 5

ACCUSED 6

ACCUSED 7

ACCUSED 8

ACCUSED 9

ACCUSED 10

ACCUSED 11

ACCUSED 13

## REPORT OF TREVOR SEAN WHITE

Dated

19 November 2010

Specialist field

Chartered Accountant and Forensic Auditor

On behalf of the Prosecution

The Director of Public Prosecutions

On the instruction of

The Department of National Treasury

Subject matter

Investigation conducted into the purchase of thirty (30) x  
Oxyntaka Self- Generating Oxygen Plants by the Northern  
Cape Department of Health from Intaka Investments (Pty) Ltd.Trevor White  
PricewaterhouseCoopers  
PO Box 1049  
DURBAN  
4000Telephone 031 271 2000  
Facsimile 031 202 8220  
Cell phone 082 454 6864

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**Chartered Accountant and Forensic Auditor**

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|   |           |
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| Personal details  | 1         |
| Experience and qualifications   | 1         |
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| <b>2. The purchase of a further five(5) x Oxyntaka plants from Intaka for Gordonia, Klumberley, Kuruman, De Aar and Springbok Hospitals</b>                     | <b>21</b> |
| <b>3. Agreements entered into between the Northern Cape DOH and Intaka for the 1<sup>st</sup> seven hospitals</b>   | <b>23</b> |
| <b>4. The purchase of Oxyntaka plants from Intaka for installation in all (Provincial) hospitals in the Province</b>  | <b>28</b> |
| <b>5. Agreement entered into between the Northern Cape DOH and Intaka Investments for "all other Provincial hospitals"</b>                                      | <b>30</b> |
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**ABBREVIATIONS AND TERMINOLOGY**

The following are abbreviations and terminology that have been used in this report:

| <i>Abbreviated name/<br/>terminology</i> | <i>Full name and/or description</i>  |
|--|--|
| BAS                                      | Basic Accounting System  |
| CEO                                      | Chief Executive Officer  |
| De Lange                                 | Raoul De Lange   |
| Gaborone                                 | Daniel Gaborone  |
| Halvey                                   | Vincent Halvey   |
| HOD                                      | Head of Department   |
| Insméd                                   | Insméd (Pty) Ltd   |
| Intaka                                   | Intaka Investments (Pty) Ltd, Intaka Tech (Pty) Ltd, Intaka Holdings (Pty) Ltd |
| John Block                               | John Fikile Block  |
| KZN                                      | Kwa-Zulu Natal   |
| KZN Health                               | The KwaZulu- Natal Department of Health  |
| KZN LG & TA                              | The KwaZulu- Natal Department of Local Government and Traditional Affairs      |
| Laubscher                                | Adriaan Laubscher  |
| Madyo                                    | Deon Madyo   |
| Mitha                                    | Sanjay Kumar Mitha   |
| National Treasury                        | The Department of National Treasury  |
| Northern Cape DOH                        | The Northern Cape Department of Health   |
| PFMA                                     | Public Finance Management Act, Act 1 of 1999                                   |
| Potgieter                                | Philipene Potgieter, Secretariat Northern Cape Provincial Tender Board         |
| Praderi                                  | Fernando Praderi, Intaka   |

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| <b>Abbreviated name/<br/>terminology</b> | <b>Full name and/or description</b>       |
|--|---|
| PSA                                      | Pressure Swing Absorption                 |
| PwC                                      | PricewaterhouseCoopers                    |
| SAPS                                     | South African Police Services             |
| Savoi or Dr Savoi                        | Dr Gaston Savoi, Intaka                   |
| SCM                                      | Supply Chain Management                   |
| Selao                                    | Ms DD Selao, MEC Northern Cape DOH        |
| Shabbir                                  | Hamid Shabbir                             |
| The Provincial Tender Board              | The Northern Cape Provincial Tender Board |
| Watertech                                | Stratfit cc trading as Watertech          |

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**A. AUTHOR'S DETAILS**

**1.000 Name**

1.001 Trevor Sean White.

**2.000 Personal details**

2.001 I am a male with identity number 6611245014087, 43 years old. I am a director of PricewaterhouseCoopers Advisory Services (Pty) Ltd, 102 Stephen Dlamini Road, Berea, Durban with telephone number (031) 2712000.

**3.000 Experience and qualifications**

3.001 I joined Price Waterhouse in 1989, and was admitted as a director of PricewaterhouseCoopers on 1 July 1998, following the merger of Price Waterhouse and Coopers and Lybrand. I am presently the director in charge of the KwaZulu-Natal Risk Advisory Services department, which incorporates the Forensic Investigations Department of PricewaterhouseCoopers in KwaZulu-Natal.

3.002 I have conducted numerous fraud investigations for both public and private sector clients and have given evidence in the South African High Court and the Regional Court and in the Lesotho High Court. I have also presented evidence to a Commission of Enquiry, the Commission for Conciliation, Mediation and Arbitration ("CCMA") and at various disciplinary hearings. I am trained in auditing techniques and hold a Bachelor of Commerce degree and Post Graduate Diploma in Accountancy from the former University of Natal Durban. I was also admitted as a member of the South African Institute of Chartered Accountants in 1992. I am a Certified Fraud Examiner, being admitted as a full member of the Association of the Certified Fraud Examiners, a Texas based organisation, in 1998. I have been involved in a number of business valuations and performance audits. My specialist field is Forensic Auditing and as such I have extensive experience in analysing, reviewing and verifying financial information and accounting records. I have also

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chaired three investigative Commissions of Enquiry into Fraud and Corruption in Swaziland.

**B. MANDATE AND ISSUES TO BE INVESTIGATED**

**4.000 Appointment**

4.001 The terms of our appointment are detailed in our agreement which was signed by Mr Freeman Nomvalo of the Department of National Treasury (**National Treasury**), on 2 July 2010. The said Agreement relates to the investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN Department of Local Government and Traditional Affairs (**KZN LG & TA**) and the Northern Cape Department of Health (**the Northern Cape DOH**). This report covers the investigation into the Northern Cape DOH and the purchase of Oxyntaka Self- Generating Oxygen Plants only; separate reports will be, or have been, issued for the investigation conducted at the KZN LG & TA; the procurement of Water Purification Plants by the Northern Cape DOH; and the purchase of Dialysis Machines by the Northern Cape DOH.

4.002 The following represents the General Procedures performed:

1. Requested and received Basic Accounting System (**BAS**) reports for Intaka who received orders for the supply of Water Purification Systems, Oxyntaka self generating oxygen plants and Dialysis Machines and were paid by the Northern Cape DOH.
2. Obtained supporting payment vouchers.
3. In respect of the procurement procedures followed, obtained all relevant documents including quotations, applications to and approvals by the Provincial Tender Board and minutes of meetings.
4. Interviewed and obtained affidavits where necessary from officials involved in the

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procurement procedure and/or who were referred to in relevant correspondence.

5. Determined whether any person involved in the procurement process or otherwise irregularly manipulated the procurement process to favour Intaka.
6. Visited and/or requested additional documentation and information from hospitals where the water purification plants, oxygen plants and dialysis machines had been delivered and/or commissioned.
7. Interviewed third parties and obtained affidavits and supporting documents where necessary and applicable, including Intaka staff whose names featured on documentation and electronic records between the Northern Cape DOH and/or officials, and Intaka.
8. Accompanied the SAPS investigating officer to Cape Town and reviewed the 356 files of documents seized from Intaka.
9. Reviewed the electronic data copied by the SAPS from computers seized from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
10. Examined bank accounts subpoenaed by the SAPS.
11. Assisted the SAPS investigating officer with interviewing any official or any person related to any official from the Northern Cape DOH, or any other third party that may have been involved in any irregular conduct or who received any irregular payments.
12. Examined additional documents seized by the SAPS from Intaka.

4.003 I am not required to and did not undertake an audit in terms of the International Standards on Auditing. The scope of my work was limited to a review of the documentary evidence made available to me and enquiries undertaken to address

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issues identified in the execution of the investigation undertaken. I have not verified the authenticity or validity of the records and documents provided to me, unless otherwise stated.

4.004 This report has been prepared solely for use in the criminal matter registered with the SAPS; Kimberley CAS 02/05/2010. It may also with the prior written consent of the Director of Public Prosecutions be used in any civil or disciplinary proceedings that the Northern Cape DOH may wish to initiate. It may not be suitable for any other purpose and it should not be used, reproduced or circulated for any other purpose without my prior written consent. It should be a condition of such consent, if given, that PricewaterhouseCoopers and myself accept no responsibility to that third party and that such third party will hold PricewaterhouseCoopers and myself harmless in respect of any consequences of such disclosure. Whether or not I have given consent, PricewaterhouseCoopers and myself will not accept liability or responsibility to any other party who may gain access to this report.

4.005 I have included information relevant to the investigation and related circumstances but cannot conclude on the completeness of such information as the possibility exists that not all-relevant information and documentation was made available to me. Any documentation or information brought to my attention subsequent to the date of this report, which will affect the findings detailed herein, will require my findings to be adjusted and qualified accordingly.

4.006 This report contains hearsay evidence based on interviews conducted with individuals. I deem the aforementioned evidence to be appropriate to sketch the full picture of the allegations raised.

**5.000 Background**

5.001 During the course of an investigation conducted by PwC in the KZN Department of Health into allegations of tender and procurement irregularities for which undue payments were allegedly made and other financial irregularities, we received information and it was alleged that Intaka Investments (Pty) Ltd (Intaka) had received

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an order for the supply of water purification systems to the Department of Health KZN (KZN Health) and that a corrupt payment was made to an official. We investigated this matter relying solely on the documentation in possession of KZN Health and interviews and information obtained from officials of the said Department. At this stage we were informed that Intaka was the subject of a criminal investigation and when we attempted to interview an employee of Intaka we were advised by their Legal Advisor that we were required to address all correspondence through him. Hence, we did not have access to Intaka's records or their employees who may have been involved in the provision of the water purification systems (plants). We were subsequently informed that the SAPS had conducted a search of Intaka's premises and had seized documentation. We initially did not have access to these records.

- 5.002 Following the said investigation we issued our report dated 30 November 2009, that included the investigation and findings at that date in respect of the supply of water purification systems to the KZN Health by Intaka.
- 5.003 We were thereafter on 9 February 2010 mandated to extend our forensic investigation into the awarding of a contract for Oxyntaka self- generating oxygen plants to Intaka and to assist the SAPS with the review of the documents and computers seized from Intaka. We have completed the said investigation; and we issued a report in this regard dated 24 May 2010.
- 5.004 On 4 May 2010 we were appointed by National Treasury to conduct a preliminary investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN LG & TA and the Northern Cape DOH. The purpose thereof was to obtain sufficient evidence and information in order to prepare an affidavit for purposes of a restraint order by the Asset Forfeiture Unit (AFU) for Intaka and other identified parties. Our mandate was further extended on 2 July 2010 as previously referred to in paragraph 4.001 of this report.
- 5.005 My findings into the investigation conducted at the Northern Cape DOH and the procurement of Oxyntaka self- generating oxygen plants are detailed below.

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**6.000 Issues addressed in my Investigation**

6.001 This report focuses on orders awarded to Intaka for Oxyntaka self- generating oxygen plants.

6.002 The report further summarises the Procurement Procedures followed during the awarding of the orders in question, where these have been contravened and where collusion has taken place between the Northern Cape DOH Officials, suppliers and other third parties.

**C. BASIS OF INVESTIGATION**

**7.000 Execution of fieldwork and gathering of information**

7.001 Members of my staff have assisted me in the execution of fieldwork and gathering of information necessary to compile this report, however, where an opinion is expressed in this report it is my own opinion.

**8.000 Sources documents**

8.001 The information dealt with in this report was obtained from the sources listed below:

- i) Supporting procurement documentation handed to PwC by the Department.
- ii) Kreditinform Enquiries.
- iii) BAS reports.
- iv) Persal reports.
- v) Interviews conducted with Management and staff at the Northern Cape DOH.
- vi) Information received from third parties.
- vii) Interviews conducted with third parties.
- viii) Documents seized by the SAPS from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
- ix) Electronic records seized by the SAPS from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.

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- x) An affidavit provided by Dr Savoi of Intaka to the SAPS.
- xi) Bank records subpoenaed by the SAPS.

**D. DETAILED PROCEDURES AND FINDINGS**

- 9.000 Prior to discussing the investigations into the Oxyntaka self- generating Oxygen plants I deem it necessary to refer to the relevant procurement policy and procedures in place at the Northern Cape DOH at the time the purchases were made. The detailed procedures and my key findings are addressed thereafter for the investigations conducted into the purchase of thirty (30) x Oxygen Plants by the Northern Cape DOH from Intaka.

**Code of Conduct for Supply Chain Management Practitioners: Practice Note Number 4 of 2003**

**A1**

- 9.001 The aforementioned Practice Note number 4 of 2003 was issued by National Treasury to amongst others all National and Provincial Departments, CFO's and CEO's on 5 December 2003. Further, it is applicable to all officials and other role players involved in supply chain management (SCM). The entire document is relevant however, I wish to refer to the General Principles:
- 1) The Government of South Africa commits itself to a policy of fair dealing and integrity in the conducting of it's business. The position of a SCM practitioner is, therefore, a position of trust, implying a duty to act in the public interest. Practitioners should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or supplier/ contractor for themselves, their family or their friends.
  - 2) Practitioners should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and regulations including the Public Service Regulations issued by the Department of Public Service and Administration, National Treasury Regulations and Practice Notes and directives issued by accounting officers/ authorities. They should ensure that public resources are administered

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responsibly.

- 3) Practitioners should be fair and impartial in the performance of their functions. They should at no time afford any undue of preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority invested in them.
- 4) Practitioners should comply with the Code of Conduct for the Public Service as contained in Chapter 2 of the Public Service Regulations, 2001 especially items C4.5 to C4.12 and C5.3 to C5.4 thereof. I attach Chapter 2 of the Public Service Regulations, Code of Conduct for the Public Service hereto for ease of reference.

**A1/4-8**

**Supply Chain Management: Threshold values for the procurement of goods and services by means of petty cash, verbal/ written price quotations and competitive bids: Practice note number SCM 2 of 2005 and Treasury Practice Note 8 of 2007/2008**

9.002 The aforementioned Practice Note number 2 of 2005 was issued by National Treasury to amongst others all National and Provincial Departments, CFO's and CEO's on 10 May 2005. The document sets out the threshold values when procuring goods or services, hiring or letting anything, acquiring or granting any right or disposing of movable state property. I wish to refer to relevant sections in respect of the procurement of goods or services above the value of R200,000 (vat included):

**A2**

- 1) Accounting officers/ authorities should invite competitive bids for all procurement above R200,000.
- 2) Competitive bids should be advertised in at least the Government Tender Bulletin and in other appropriate media should an accounting officer/ authority deem it necessary to ensure greater exposure to potential bidders.
- 3) Should in be impractical to invite competitive bids for specific procurement e.g. in urgent or emergency cases or in cases of a sole supplier, the accounting officer/ authority may procure the required goods or services, in accordance with Treasury Regulation 16A 6.4 by other means, such as price quotations or negotiations. The reasons for deviating from inviting competitive

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bids should be recorded and approved by the accounting officer/ authority or his/ her delegate. I will later show in this report that the Northern Cape DOH in their submission to the Provincial Tender Board presented Intaka as a sole supplier of oxygen plants which is not true.

- 9.003 The aforementioned Practice note SCM 2 of 2005 was repealed with effect from 1 December 2007 and replaced with Treasury Practice Note number 8 of 2007/2008. The relevance is that the threshold for inviting competitive bids was increased from R200,000 to R500,000. I further attach Treasury Regulation 16A for ease of reference and refer to 16A6.5: *"The accounting officer or accounting authority may opt to participate in transversal contracts facilitated by the relevant treasury. Should the accounting officer or accounting authority opt to participate in a transversal contract facilitated by the relevant treasury, the accounting officer or accounting authority may not solicit bids for the same or similar products or service during the tenure of the transversal term contract"*. A3 A4 A4/4
- 9.004 I wish to mention further that the Northern Cape DOH implemented a Provincial Supply Chain Management (SCM) Policy effective 5 April 2006. However, the procurement of the oxygen plants in 2005 and 2006 to be discussed in this report was not dealt with in terms of the said policy. The Department applied to the Provincial Tender Board for deviation from the tender procedures; the calling for competitive bids SCM 2 of 2005 and SCM 8 of 2007/2008, when the oxygen plants were procured based on Intaka being an alleged sole supplier. The said Provincial Tender Board was dissolved in June 2006 after it had approved the deviations in question. I do not deem it necessary to attach the aforementioned Provincial Supply Chain Management (SCM) Policy as it was not applicable to the oxygen plants.

**Background: Affidavit of Dr Gaston Savoi**

- 9.005 I attach hereto for ease of reference an affidavit of Dr Gaston Savoi's (Dr Savoi or Savoi) signed and dated 21 August 2008. The affidavit deals primarily with a donation paid by Intaka in February 2007 and two commission payments made in August 2007 that relate to Intaka's business transactions with the KZN Department of B1

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Health and KZN Department of LG & TA respectively. The affidavit refers to how he and Intaka were introduced to the KZN Provincial Government, however it does not refer to the Northern Cape Province or business transacted with the Northern Cape DOH.

**Intaka Investments (Pty) Ltd**

9.006 I determined when investigating an order awarded to Intaka by the KZN Department of Health for the supply of 2 water purification plants, that the registration number recorded on the footer of their quotation dated 2 October 2006 is 2003/021018/07, attached hereto for ease of reference. A Kreditinform enquiry determined that the said registration number belongs to Intaka Holdings (Pty) Ltd. The said entity was previously known as Intaka Tech (Pty) Ltd and was first registered on 28/08/2003. The holding company is recorded as "Savoi Family Trust". The Active Principals are Dr G Savoi id 521226 0000 000 appointed on 28/08/2003 and Mr R Savoi id 810212 5000 000 appointed on 21/11/2007. In terms of the footer of the quotation the other 2 directors as at 2 October 2006 were Fernando Praderi and Clement Morris. In terms of the Kreditinform Report these 2 persons resigned as Directors, however the date of resignation is not reflected. It would appear that the entity with registration number 2003/021018/07 was known as Intaka Investments (Pty) Ltd at the date of the quotation and subsequent thereto changed its name to Intaka Tech (Pty) Ltd and then Intaka Holdings (Pty) Ltd. This is confirmed by CIPRO on 6 October 2010.

**B2/1-3**

**B3**

**B3/15**

**Intaka Northern Cape**

9.007 I determined that the first 2 water purification plants purchased by the Northern Cape DOH, discussed in a separate report, were awarded to an entity known as Intaka Northern Cape. A Kreditinform Enquiry determined that Intaka Northern Cape (Pty) Ltd with registration number 2005/006456/07 was previously known as Tarree Investments and was registered on 2 March 2005. The Directors appointed effective 2 March 2005 and who are still active principals are: John Fikile Block (**John Block**) id 680210 5802 089 and Gaston Savoi id 521226 0000 000. The current status of this entity is recorded as de- registered. However according to CIPRO, on 6 October

**B4**

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2010, the status is recorded as "In Business". I will again refer to this entity and payments made to John Block later in this report.

**B4/15**

**THE PURCHASE OF OXYNTAKA SELF- GENERATING OXYGEN PLANTS FROM INTAKA**

**Orders awarded to Intaka and payments made by the Northern Cape DOH**

9.008 We requested a list of all payments made to Intaka by the Northern Cape DOH from BAS and identified those made in respect of the supply of Oxyntaka self- generating oxygen. I determined that as at 3 June 2010 payments amounting to R66,729,078.24 had been made to Intaka from the date the first plant was commissioned. These payments relate to all 30 hospitals and include payments not allocated to specific hospitals, as I have not been provided with the relevant payment vouchers and I have been unable to link the payments to a specific hospital. Where the payment voucher is outstanding, I have linked the payment based on the amount and period to a specific hospital. A spreadsheet was prepared, capturing all relevant information and sorted per hospital. The relevant source documents from the Northern Cape DOH consist of 12 lever arch files and hence have not been attached to this report. Every source document has been provided with a page number in each of the 12 files that is recorded in the last column of annexure C1 "PwC Ref No". These are available for inspection if required.

**C1/1-17**

9.009 A further spreadsheet per hospital was prepared and attached thereto is an example of an Intaka invoice to each. I wish to point out at this early stage, as it was identified in the KZN Health investigation, that Intaka invoiced the Northern Cape DOH and were paid based on a "guaranteed usage" and the invoices were worded for example as follows "*Charged for oxygen consumed in January 2007 in accordance with contract from 01/01/2007 – 31/01/2007 (666kg @ R16.00 p/kg)*" or "*Service supplied for August 2006 rental in accordance with contract from 01/08/2006 to 31/08/2006 (3000kg @ rate of R16,00)*" and not actual monthly usage. This is evident based on identical quantities of oxygen and identical amounts recorded on the Intaka invoices for each specific hospital and paid for each of the 30 respective hospitals each

**C2/1-63**

**C2/2**

**C2/4**



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month.

- 9.010 Intaka did not record the kilograms of oxygen "consumed" in their invoices for 2 hospitals: Kenhardt and Postmasburg, examples of which are attached. I have attached the relevant "Schedules" to the Agreement to be discussed later in this report for these 2 hospitals in order to show they were invoiced based on a "guaranteed usage" of 1,085 kg for Kenhardt hospital and 1,500 kg for Postmasburg Hospital. I further wish to refer to Gordonia Hospital as this would become an issue and will be discussed later in this report. The description of services provided on invoice number 110 dated 31/08/2006 includes rental for 7,583 kg, whilst on invoice number 645 dated 29/10/2007 the description of services provided merely states: "Oxygen supply for the month of October 2007 in terms of contract" with no reference to the number of kilogram's.

C2/30

C2/45

C2/31

C2/46

C2/56

C2/57

**Background into obtaining all relevant documentation from the Department and from the SAPS**

- 9.011 I initially received and examined documents from the SAPS in the Western Cape under "Project X Cross Ref 26/102/2 (17)" being hard copy and electronic records, after they conducted a search of Intaka's premises. I thereafter received and examined documents seized by the SAPS in the Northern Cape, being hard copy and electronic records, after they conducted searches at various business entities and suspected persons premises in the Northern Cape. We then requested all relevant procurement documentation and other official records from the Northern Cape Department of Health relating to the water purification plants, oxygen plants and dialysis machines. In addition to this we obtained documents and records from: the office of the Secretariat of the ex-Northern Cape Provincial Tender Board; a report prepared by the Auditor General; third parties interviewed by SAPS and PwC representatives during the investigation phase; bank records subpoenaed by the SAPS; and records from the office of the Registrar of Companies and Close Corporations. In addition SAPS performed a further search of Intaka's premises on 25 August 2010 and seized additional documents that were examined by me.

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**Detailed investigation into all documents received and interviews conducted**

9.012 We received a number of documents from the said sources and compiled a comprehensive list, in order to obtain a clear understanding of the sequence of events in terms of the documents. I deem it necessary to briefly refer to each relevant document and the content of each where applicable. All documents discussed hereunder were obtained from the sources listed above, unless otherwise stated.

**1. The purchase of two (2) x Oxyntaka plants from Intaka for Calvinia and Colesberg Hospital**

9.013 On 15 June 2005 the Office of the Deputy Director General, Kimberley Hospital Complex sent a letter to Ms P Potgieter (**Potgieter**), Office of the Northern Cape Provincial Tender Board (**the Provincial Tender Board**). The letter contains the name Mr S Mitha in the enquiries section on the top left of page 1 and his phone number and fax number. The title is "Deviation of Tender- Oxygenator". "Oxygenator" refers to the Intaka product namely the "Oxyntaka medical oxygen and medicinal air self- generating unit" (**Oxygen plants**). D1/1-3

9.014 Mitha sets out the purpose and refers to two completed revitalized projects at Colesberg and Calvinia hospitals, *"However due to the geographic conditions experienced in the Northern Cape, service delivery of oxygen, which is vital in stabilizing patients, is often compromised. The lead times by the supplier results in overstocking which increases the cost of renting a cylinder"*. There are no reports or other documentation supporting this statement from any hospital i.e. that service delivery of oxygen has been compromised and that there is overstocking which results in increases in the costs of renting cylinders at a specific hospital.

9.015 Furthermore, there is no evidence that Calvinia and Colesberg are or would fall into this category. There is further no evidence that Mitha was qualified to make such a statement or how he reached these conclusions.

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9.016 Mitha adds the following: *"Modern Technology has made it possible to produce oxygen on site ending regular oxygen purchase"*. This statement is incorrect. I determined during the course of investigating Oxyntaka's supplied to KZN Health that despite the presence of the Oxyntaka supplied by Intaka, the relevant hospitals were still required to purchase oxygen cylinders for back-up supplies, as the Oxyntaka did not come with a back-up system and in the case of bigger hospitals liquid oxygen from AFROX was still purchased for back up purposes. I will discuss the back-up requirement in more detail later in this report.

9.017 He adds: *"The expense, administrative work, inconveniences, and uncertain deliveries often associated with purchased oxygen are eliminated. The Department of Health has explored this option of utilizing modern technology to provide excellent health service to the communities of Colesberg and Calvinia"*. There is no evidence supporting this statement i.e. that the problems as alleged actually exist and that there has been an in depth analysis and report on the *"modern technology"*. Mitha adds on page 2 under Comments: *"The concept of providing oxygen on site are used by South American countries due to the geographic locations of many of those hospitals. One company Intaka Investments (Pty) are the only supplier of this technology in South Africa"*. This is false. During the KZN Health investigation I determined from Mr Steven Reece a Director of Insmmed (Pty) Ltd (Insmmed), another South African company, that Insmmed also supply units that produce medicinal oxygen and medicinal air. When interviewed Steven Reece he advised as follows: *"Insmmed is a supplier of oxygen manufacturing machines, also known as the PSA unit, which generates medical oxygen and medical air, providing a cost effective supply of oxygen on demand. It is a good alternative to traditional oxygen supply at smaller institutions. Insmmed commissioned a PSA unit at Vryheid Hospital during April 2005. The commissioning of the PSA unit was part of a "Pilot Project" initiated by the Department to determine the feasibility of a PSA unit as opposed to the supply of oxygen cylinders to the hospital. The unit is currently in good working order and operational"*. PSA referred to by Reece is the abbreviated name for "Pressure Swing Absorption" (PSA). I confirmed that such a pilot project had been undertaken by Insmmed and a similar pilot project by Intaka at Murchison Hospital on behalf of KZN Health.

D1/1  
D1/2  
E1

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- 9.018 In addition to Insmed a number of other entities submitted tenders in KZN when KZN Health advertised the bid for tenders, including an entity known as Myriad Medical. The said Myriad Medical lodged an appeal with the KZN Bids Appeals Tribunal after the tender was awarded to Intaka. Myriad Medical disputed the Departments response (made to Myriad Medical prior to the formal appeal being heard) that Myriad Medical does not have a PSA installed in South Africa. They provided copies of correspondence that confirmed that in 2004 they supplied Intaka Investments with a Dinattec Pressure Swing Absorption Oxygen Generating Unit, which they understood was installed at Somerset West Hospital and successfully operated there for an extended period of time. They further added that Intaka had failed to pay for the unit and the amount remains outstanding. They also attached photographs of the Dinattec unit together with Intaka Investments logos at the Dinattec installation in Somerset West at the time. They also stated that they offered to fly an official nominated by KZN Health to Brazil at their own cost, to inspect the over 300 units which are successfully operating in Brazilian hospitals. E2
- 9.019 Hence, Mitha's submission that Intaka is the only supplier of this technology in South Africa amounts to a misrepresentation.
- 9.020 Mitha repeated that the Oxyntaka system will end regular oxygen purchase and that in the unlikely event of the system deviating from preset limits; it immediately switches to the secondary supply. I determined that the Oxyntaka's supplied to KZN Health does not come complete with the whole entire system: being primary, secondary and reserve supply, and as previously stated without a back-up system. This was confirmed by Intaka's Mr Oosthuizen on two occasions at Intaka meetings held on 23 and 30 January 2008 respectively. I refer specifically to the following comments by Oosthuizen: *"In large hospitals the PSA becomes a primary supply and the bulk tank a secondary supply and the cylinders play the role of a reserve supply"*. E3  
E3/4
- 9.021 In addition to the above I have observed that there is no indication of:
- 1) The full and exact specifications of the plant;
  - 2) That a substantive needs analysis had been performed by a technically qualified

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person;

- 3) That the costs have been sufficiently budgeted for and that there was an approved budget;
- 4) That there was evidence that the industry had been analysed and that it was determined by an official of SCM that Intaka are the sole suppliers of the plant in the country.

9.022 Mitha concluded by recommending: *"In light of the above information, we hereby respectfully request that this modern technology be considered as an alternate means of supplying oxygen to the above communities"*. The letter has been signed by the following officials approving the recommendation:

- 1) Mr D Gaborone (Gaborone), Chairperson Departmental Tender Committee on 20 June 2005;
- 2) Mr DD Madyo (Madyo), Head of Department on 20 June 2005; and
- 3) Ms ES Selao (Selao), MEC for Health on 21 June 2005.

9.023 I wish to state that a similar Submission was made by Mitha to the Provincial Tender Board dated 17 June 2005 i.e. 2 days after the Submission in question dated 15 June 2005. The said Submission recommended the awarding of an order to Intaka for the supply of two (2) x water purification plants to the same hospitals as the Oxygen plants namely Colesberg and Calvinia. The said Submission was also signed by the same 3 signatories as detailed above.

D1/4-6

D1/6

9.024 For convenience sake I will refer to the names of the 2 hospitals at Calvinia and Colesberg, as these names are used inter- changeably by the Department and by Intaka in various correspondence:

|   | Place/ site | Name of hospital      |
|---|-------------|-----------------------|
| 1 | Calvinia    | Abraham Esau hospital |
| 2 | Colesberg   | Manne Dipico hospital |

9.025 Potgieter, the Secretariat of the Provincial Tender Board at the time, prepared Memo 8 dated 23 June 2005. In terms thereof she recommended to the Provincial Tender

D2

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Board that a decision be reserved pending a written offer by *Intaka Investment (Pty)* (as referred to by Mitha), and secondly that the Department (Northern Cape DOH) should also submit a comparison between the current costs for the supply of oxygen and their proposal as per the memo.

- 9.026 On the same day Fernando Praderi (**Praderi**) of Intaka sent a fax to Mr W Williams, Department of Finance Northern Cape Province, confirming a price of R16 plus VAT per kg of oxygen, to be adjusted annually by 6% or by the Consumer Price Index. He also stated that after 10 years of lease the Oxyntaka equipment becomes the property of the hospital. I wish to mention that in KZN Health ownership of the Oxyntaka's reverted to the Department after 5 years. D3
- 9.027 It would appear that the recommendation by Potgieter was approved by the Tender Board and that she thereafter on 27 June 2005 sent a letter to Mitha requesting the abovementioned 2 requirements be attended to, as evidenced by Mitha's subsequent letter to Potgieter dated 2 July 2005. Mitha provided additional information relating to an analysis of the cost implications for the 2 hospitals and why Intaka's price of R18.24 per kg is economically justifiable. I am unable to determine where he obtained these figures from and will refer to these again when discussing annexure D4A below and reports received from Colesberg and Calvinia hospitals later in this report. D4A1  
D4/1-2
- 9.028 Also attached to the aforementioned letter is a Comparative Oxygen Consumption Costs schedule and an extract of "National Tender Prices". The contract number is recorded as RT50-2005CV on annexure D4/7-8. The comparative costs schedule reflects a saving of more than 60% when comparing the prices per the National (Afrox) tender and the cost of using Intaka's Oxyntaka, for 6 hospitals including Colesberg and Calvinia. The price per kg for Colesberg and Calvinia being R12.96 and R23.46 are prices appearing in the attached "National Tender Prices" for the Northern Cape, but I am unable to link these to the 2 hospitals. In addition I am unable to determine where Mitha obtained the rental cost of R5.00 per cylinder and per kg from. The monthly base oxygen consumption per month of 3,000kg also does not reconcile nor is it referred to in the figures in his letter to Potgieter dated 2 July D4/3  
D4/4-8  
  
D4/8  
  
D4/1-2  
D4/3

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2005. Intaka quoted an amount of R16 per kg based on a "monthly base consumption" of 3,000 kg and not actual consumption. Based on the above letter, the Comparative Oxygen Consumption Costs schedule and an extract of "National Tender Prices" the alleged savings of 60% cannot be verified by me.

- 9.029 I wish to add that neither the Northern Cape DOH nor Potgieter provided a copy of the letter dated 27 June 2005 referred to by Mitha. A copy of this letter was however located in the records of Intaka seized by the SAPS, that in itself is unusual as the letter was addressed to Mitha at Northern Cape DOH from the office of Potgieter, Head Provincial Supply Chain Management. I would have expected the Provincial Tender Board to have been in possession of a copy of this letter as it originated from their office. Reference is made to the Submission dated 15 June 2005, that the matter was presented to the Provincial Tender Board Committee (I am not in possession of the minutes of this meeting or other documents confirming the presentation to the Tender Board) and that the following was resolved: a decision be reserved pending a written offer by Intaka Investments; and secondly that a comparison should be made between Intaka's offer and the current tender. This letter appears to have been faxed to Intaka from "Dept Finance 053 8322959", which I assume to be the Department of Health Finance Department. D4A/1  
D1
- 9.030 Paragraph 3 of the letter refers to the fact that the price received from Intaka is considerably higher than that reflected in the attached contract RT 88/2000 price schedule (previously attached above as annexure D4/4-8). I am unable to determine from the said schedule how the prices of R10,668 per kg for Calvinia and R9,585 per kg for Colesberg was determined. However, the writer (assumed to be Potgieter as Mitha's reply was addressed to her) was clearly concerned about the price as is evident in paragraph 4 of the letter that I deem necessary repeating: *"Purely from a financial point of view, your recommendation is not justifiable. However, this office shall re-submit your request to the Board but only if you are explicit when motivating that 'the expense, administrative work, inconveniences and uncertain deliveries often associated with purchased oxygen are eliminated'. You should also indicate the nearest Afrox depots to the towns of Calvinia and Colesberg".* D4A/1  
D4A/2-6  
D4A/1

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- 9.031 Thus, the said letter was dated 27 June 2005, but a reply had already been received from Intaka on 23 June 2005 being the written confirmation of the price. Secondly, Mitha's reply dated 2 July 2005 did not disclose the higher price as determined by Potgieter and/or her office, and any further information that would explain why he disagreed with her regarding the matter not being financially viable. His reply also falls short of the motivation requested by Potgieter's office. Significantly, he failed to disclose where he obtained the "monthly base O<sup>2</sup> consumption" figures from and that the Departmental would be charged R16.00 per kg based on the said quoted "monthly base O<sup>2</sup> consumption". D4A/1  
D3  
D4
- 9.032 On 12 July 2005 Potgieter prepared Memo 6 effectively summarising the Submission of Mitha and recommending the acquisition of two (2) x Oxyntaka plants from Intaka, in the amount of R16 plus VAT per kg that will be adjusted by 6% annually or by CPIX as published. She has partially referred to Mitha's calculation/costing per his letter dated 2 July 2005 in respect of Colesberg and Calvinia hospitals and has concluded that *"It is therefore obvious that the new proposed method will be very cost effective"*. It is my view that Memo 6 contains insufficient information that would allow me to conclude that there is an *"obvious"* cost effectiveness (saving). Significantly, Potgieter has also not referred to the price *"viability"* of the letter dated 27 June 2005, how it differed to Mitha's and how this was resolved, to the Tender Board. Potgieter was interviewed during the course of this investigation as she was identified as having dealt with all Submissions submitted by Northern Cape DOH for both the water purification plants and oxygen plants at the Secretariat for the Tender Board. Her role as Secretariat to the Provincial Tender Board was the preparation of Memorandums for consideration by the Tender Board, as summarised in her various Memo's to the Tender Board, discussed above and to be further discussed in this report. She was adamant that she could not recall anything specific or of relevance other than what is included in the documents, from any of the Submissions and was only prepared to confirm that she was the custodian of the official documents of the Tender Board that were subsequently handed over. Alternatively, she chose not to say anything. This also brings into question why she was unable to provide a copy of the letter dated 27 June 2005, where the price was an issue and then it was subsequently never mentioned again. I will again refer to the interview with her later D5  
D4  
D5  
D4A  
D4A
-

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in this report.

- |       |  |                         |
|-------|--|-------------------------|
| 9.033 | <p>The minutes of the meeting of the Provincial Tender Board of 13 July 2005 reflect that the Board under Memo 6 unanimously approved the acquisition of two (2) x Oxyntaka plants from Intaka, in the amount of R16 plus VAT per kg that will be adjusted by 6% annually or by CPIX as published. In the absence of any mention of a minimum monthly usage I submit that the Provincial Tender Board approved the amount R16 per kg based on actual quantity of oxygen to be consumed per month. In KZN Health the Bid Specification document required the Department to be invoiced monthly based on actual usage as opposed to a guaranteed monthly minimum as provided for in the subsequent Agreement entered into between KZN Health and Intaka. I determined as will be discussed later in this report that Intaka invoiced the hospitals in Northern Cape DOH based on a fixed monthly amount that was repeatedly questioned by some of the hospitals.</p> | <p>D6<br/>D6/3</p>      |
| 9.034 | <p>I wish to point out that Gaborone was present at the said meeting as a member of the Provincial Tender Board. Gaborone was also the CFO of the Northern Cape DOH at the time and approved the letter sent to the Provincial Tender Board prepared by Mitha dated 15 June 2005. I have been unable to determine the relationship, if any, between John Block of Intaka Northern Cape and Ms SF Block, a member of the Provincial Tender Board as we were unable to trace and interview Ms Block.</p>   | <p>D6/1<br/><br/>D1</p> |
| 9.035 | <p>On 13 July 2005 the Office of the Head Provincial Supply Chain Management sent a letter to the HOD Department of Health for the attention of Mitha. Reference was made to their Submission of 2 July 2005 and that the Provincial Tender Board had approved their recommendation for the acquisition of two (2) x Oxyntaka plants from Intaka, in the amount of R16 plus VAT per kg that will be adjusted by 6% annually or by CPIX as published. No mention is made of a "base consumption" or "guaranteed usage"</p>  | <p>D7</p>               |

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**2. The purchase of a further five(5) x Oxyntaka plants from Intaka for  
 Gordonia, Kimberley, Kuruman, De Aar and Springbok Hospitals**

- 9.036 On 7 September 2005 Mitha sent a further letter to the Tender Board for another deviation from tender procedures and referred to their letter dated 13 July 2005. He refers to *"the viability of these units as spelled out in the letter dated 2 July 2005 is positive. Based on these calculations the Department would like to install five more units at Gordonia Hospital, Kimberley Hospital Complex, Kuruman Hospital, De Aar Hospital and Springbok Hospital"*. The remainder of the information is a repeat of that provided in Mitha's letter dated 2 July 2005. D8
- 9.037 There is no report on whether the plants have been installed at Colesberg (Manne Dipico hospital) and Calvinia Hospital (Abraham Esau): the functioning of the plants; whether they had met the requirements as envisaged; actual financial costs to date; whether saving of in excess of 60% as anticipated had in fact been made; and any motivating factor post commissioning of the 2 plants that would make the installation of 5 additional plants a viable proposition for consideration by the Provincial Tender Board. Further, Mitha has not disclosed whether the hospitals will be charged in terms of a fixed monthly consumption amount or actual usage of oxygen, and what the fixed monthly consumption amount is per hospital. This submission has been signed by Madyo as HOD and Ms ES Selao MEC of Health, and not by Gaborone on this occasion.
- 9.038 I determined that Mitha was the Director of the Hospital Revitalisation Programme and as such it was his responsibility to ensure the plants at the first 2 hospitals were operating effectively and that the Department was realising the savings as envisaged in his submission to the Tender Board prior to requesting a further deviation for another 5 hospitals. I also determined that the additional 5 hospitals did not fall within the Hospital Revitalisation Programme and hence Mitha's role in the additional 5 hospitals appears to be as Director of SCM. I will later in this report refer to Mitha's official responsibilities at the time the oxygen plants were purchased and the fact that the 5 additional hospitals did not fall within the Hospital Revitalisation Programme.



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- 9.039 For convenience sake I will refer to the names of the hospitals at the 5 additional places/ sites, as these names are used inter- changeably by the Department and by Intaka in various correspondence:

|   | Place/ site | Name of hospital           |
|---|-------------|----------------------------|
| 1 | Upington    | Gordonia hospital          |
| 2 | Kimberley   | Kimberley hospital complex |
| 3 | Kuruman     | Kuruman hospital           |
| 4 | De Aar      | Karoo hospital             |
| 5 | Springbok   | Van Niekerk hospital       |

- 9.040 Potgieter prepared Memo 6 dated 28 November 2005. In terms thereof she supported the Departments recommendation for the installation of five (5) x Oxyntaka machines, in the amount of R16 plus VAT per kg of oxygen that will be adjusted by 6% annually or by CPIX as published. It is evident she relied solely on what was presented to her in the brief and unqualified Submission of Mitha. The Memo like Mitha's Submission is vague and lacks substance as to what the viability of the Oxyntaka's is.

D9

- 9.041 The minutes of the meeting of the Provincial Tender Board of 1 December 2005 reflect that the Board under Memo 6 unanimously approved the installation of five (5) x Oxyntaka machines at the 5 hospitals per Mitha's Submission, in the amount of R16 plus VAT per kg that will be adjusted by 6% annually or by CPIX as published. Once more in the absence of any mention of a "guaranteed usage" I submit that the Provincial Tender Board approved the amount R16 per kg based on actual quantity of oxygen consumed per month. As previously stated and repeated as it is relevant, I determined as will be discussed later in this report that Intaka invoiced the hospitals in Northern Cape DOH based on a fixed monthly amount that was repeatedly questioned by some of the hospitals.

D10

- 9.042 On 2 December 2005 the Office of the Head Provincial Supply Chain Management sent a letter to the HOD Department of Health for the attention of Mitha. Reference was made to their Submission of 7 September 2005, received on 23 November

D11

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2005, and that the Provincial Tender Board had approved their recommendation for the installation of five (5) x Oxyntaka machines at the 5 hospitals per Mitha's Submission, in the amount of R16 plus VAT per kg, that will be adjusted by 6% annually or by CPIX as published.

**3. Agreements entered into between the Northern Cape DOH and Intaka for the 1<sup>st</sup> seven hospitals**

- 9.043 I determined that the Northern Cape DOH is not in possession of any formal written agreements alternatively they have not been provided to me as requested, for any of the 7 hospitals discussed thus far, and that was approved by the Provincial Tender Board. I identified a number of Agreements in the records of Intaka seized by the SAPS relevant to the 7 hospitals in question.
- 1) Agreement entered into between Intaka Northern Cape and Northern Cape DOH dated 11 April 2005 **D12**
- 9.044 The said Agreement was signed Dr Savoi representing Intaka Northern Cape on 11 April 2005 and Madyo representing the Northern Cape DOH on 12 April 2005. One of the witness signatures to Madyo's signature appears to be that of Dr Hamid Shabbir who will be referred to later in this report. **D12/2**  
**D12/18**
- 9.045 Clause 2.3 refers to the lease and maintenance of oxygen plants at hospitals per schedules A, B, C and D attached thereto. The said annexures contain the names of 4 hospitals: Kimberley; Gordonia; *AdamEsua* (should read Abraham Esau) and Manne Dipico. The annexures also contain the following information: **D12/2-3**  
**D12/19-22**

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|   | <b>Kimberley</b>   | <b>Upington</b>   | <b>Calvinia</b>  | <b>Colesberg</b>   |
|---|--|---|--|--|
| <b>Delivery date</b>                        | 14 June 2005   | 6 June 2005   | 23 June 2005   | 28 June 2005   |
| <b>Commencement date</b>                    | 22 June 2005   | 14 June 2005  | 27 June 2005   | 29 June 2005   |
| <b>Term date</b>                            | 5 years from the commencement date   | 5 years from the commencement date  | 5 years from the commencement date                                       | 29 June 2005   |
| <b>Guaranteed usage</b>                     | 288,000 kg's per year  | 28,800 kg's per year  | 5,760 kg's per year  | 5,400 kg's per year  |
| <b>Operating premises</b>                   | Kimberley hospital complex   | Gordonia hospital   | Adam Esua hospital (Abraham Esau)  | Manne Dipico hospital  |
| <b>Rental amount for the initial period</b> | R9.00 per kg of gas with a guaranteed min of 288,000kg per annum, plus VAT | R9.00 per kg of gas with a guaranteed min of 28,800kg per annum, plus VAT | R9.00 per kg of gas with a guaranteed min of 5,760kg per annum, plus VAT | R9.00 per kg of gas with a guaranteed min of 5,400kg per annum, plus VAT |

- 9.046 "Guaranteed usage" is defined in clause 4.5 as "the guaranteed stipulated in Schedules A, B, C and D, which is the quantity of oxygen that determines the minimum monthly rental". D12/6
- 9.047 The Provincial Tender approved the procurement for oxygen plants for Calvinia and Colesberg hospitals on 13 July 2005 and for Kimberley and Upington hospitals on 1 December 2005 in the amount of R16 per kg. The Agreement in question was signed 3 months and 7 months respectively prior to these dates on 12 April 2005 by Madyo. Further, the amount per the agreement in question is R9.00 per kg, whilst the Provincial Tender Board approved an amount of R16.00 per kg. D6  
D10
- 9.048 I identified the following e-mails in the electronic data seized by the SAPS from Intaka, from the computer of Alicia Marcos (**Marcos**) the personal assistant to Dr Savoi, relevant to the oxygen plants and that confirm Agreements were signed prior to the approval of the Provincial Tender Board and/or that unofficial authority had been communicated:
- 1) On 26 April 2005 at 12:58 from John Block to Marcos titled: "Visit to De Aar, Colesberg and Calvinia". He included the following: *"I could not respond as I was out of town. Our meeting in De Aar will start at 11h00 and thereafter we* J1/1

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*can move to Colesberg and return to De Aar for their trip to Calvinia. I have made all the arrangements with the Head of Department of Health. I will be in De Aar on Thursday to receive Dr Savoi. Please inform him that the best landing place is at the Military base in De Aar".* He was replying to an e-mail from Marcos dated 25 April 2005 05:34pm.

- 2) On 12 May 2005 at 12:04pm from Dr Savoi to John (Block) titled: "Watakas-Oxyntakas". I will only refer to the Oxyntaka: *"As we have already informed you the Oxyntaka 020 for Upington, Oxyntaka 03 for Calvinia and Oxyntaka 03 for Colesberg are ready. We must know if we can proceed with their installation, according to the agreement signed. On the other hand, the Oxyntaka 0100 for Kimberley will be ready in the date stipulated in the agreement to then be installed".* As stated above the Provincial Tender Board only approved the procurement for oxygen plants for Calvinia and Colesberg hospitals on 13 July 2005 and for Kimberley hospital on 1 December 2005, however Dr Savoi in his correspondence with John Block, is referring to an Agreement prior to these dates on 12 May 2005. J1/2
- 3) On 19 July 2005 at 02:29pm from Dr Savoi to John (Block) titled "Various"; I will only refer to the relevant section: *"Nevertheless at this stage the Northern Cape is the priority, considering that we must receive the Oxyntaka orders till Friday this week for Kimberley and Upington and in not more than 2 weeks, according to Dr Shabbir, the consumption of oxygen and medical air for the new 6 hospitals and after that we go ahead with the remaining hospitals".* J1/3

- 9.049 I further identified a letter from Intaka to John Block dated 15 June 2005 that is self-explanatory but partially repeated hereunder for ease of reference as it serves as further evidence that Agreements for R9.00 per kg and R16.00 per kg were signed prior to Tender Board approval and that Madyo was party to this arrangement and that John Block also had knowledge thereof: D13A

*"Please appreciate that the initial contracts were priced at a potential loss to Intaka. This was done with the intention of securing possible future sales in the Northern Cape. Due to new information that has come to light over the past two weeks, as well as our objective of supplying Gordonia Hospital, Upington with oxygen outlet points*

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*at our cost we require to increase the cost per kilogram to R16 (currently stated as per R9 per kilogram). We therefore include two copies of the respective annexures to the original signed contract.*

*It would be appreciated if you could forward the annexures to Mr Deon Madyo, Deputy Director general, Department of Health, province of the Northern Cape for signature. Please return to us a set of the annexures signed together with the copy of the annexures with the old price".*

2) 2<sup>nd</sup> Agreement entered into between Intaka Investments and Northern Cape DOH dated 11 April 2005 D13

- 9.050 A 2<sup>nd</sup> Agreement was signed Dr Savoi representing Intaka Investments (Pty) Ltd on 11 April 2005 and Madyo representing the Northern Cape DOH undated. The witness signature to Madyo's signature again appears to be that of Dr Hamid Shabbir who will be referred to later in this report. D13/2  
D13/19-20
- 9.051 Clause 2.3 refers to the lease and maintenance of oxygen plants at hospitals per schedules A, B, C and D attached thereto. The said annexures contain the names of 4 hospitals: Kimberley; Gordonia, AdamEsua (should read Abraham Esau) and Manne Dipico. The information contained in these annexures is the same as that appearing on the previous annexures, other than: the rental amount for the initial period being R16.00 per kilogram of gas plus VAT as opposed to R9.00; and the actual Term Date being referred to for Kimberley, Gordonia and Manne Dipico as opposed to the words "5 years from the commencement date". D13/2-3  
D13/21-24  
D12/19-22
- 9.052 "Guaranteed usage" is defined in clause 4.5 as "the guaranteed stipulated in Schedules A, which is the quantity of oxygen that determines the minimum monthly rental". D13/6
- 9.053 As previously stated the Provincial Tender approved the procurement for oxygen plants for Calvinia and Colesberg hospitals on 13 July 2005 and for Kimberley and Upington hospitals on 1 December 2005 in the amount of R16 per kg. The Agreement in question was signed prior to these dates on 11 April 2005 by Dr Savoi, D6  
D10

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whilst the date that Madyo signed the agreement has been left incomplete.

- 3) 3<sup>rd</sup> Agreement entered into between Intaka Northern Cape and Northern Cape DOH dated 22 August 2005 **D14**

- 9.054 A 3<sup>rd</sup> Agreement was signed Dr Savoi representing Intaka Investments (Pty) Ltd on 22 August 2005 and Madyo representing the Northern Cape DOH, however the date Madyo signed the document being 22 August 2005 has been deleted. There are further no witness signatures to Madyo's signature. I have also located a copy of the said Agreement in the Mazars, Moores Rowland working papers (marked page number 473 to 498) that were subpoenaed by the SAPS. **D14/2**  
**D14/18**
- 9.055 Clause 2.3 refers to the lease and maintenance of 12 oxygen plants at hospitals per schedules A- L inclusive. However, only schedules A- F and I are attached thereto. Hence, schedules G, H, J, K and L are missing (from the document located in Intaka's records by the SAPS). The available attached schedules contain the names of 7 hospitals: Kimberley; Colesberg (Manne Dipico); Calvinia (Abraham Esau); Springbok (Van Niekerk); De Aar (Karoo); Upington (Gordonia); and Kuruman. These are the 7 hospitals that were approved by the Provincial Tender Board thus far as discussed in this report. Each of the 7 schedules is dated 22 August 2005. However, the word "date" has been written on 5 schedules purporting to contain the signatures of Madyo but the actual date has not been written and hence it is not clear when Madyo signed the schedules if he indeed did so. The 2 remaining schedules contain what appears to be forgeries of Madyo's signature although I am unable to determine this with certainty. **D14/2-3**  
**D14/19-25**  
**D14/19,**  
**22-25**  
**D14/20-21**
- 9.056 The 7 schedules also contain similar information as to that recorded on the previous schedules as detailed on the attached spreadsheet. The schedules have also provided the guaranteed usage per month in addition to the annual usage, and hence the basis upon which the Department would be billed per month. The monthly usage is the same as that reflected on the Comparative Oxygen Consumption Costs schedule previously referred to by me for 6 of the hospitals (Kimberley hospital was not included on the Comparative Oxygen Consumption Costs schedule). **D15**  
**D4/3**

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- 9.057 As previously stated the Provincial Tender approved the procurement for oxygen plants for Calvinia and Colesberg hospitals on 13 July 2005 and for Kimberley and Upington hospitals on 1 December 2005 in the amount of R16 per kg. The Agreement in question was signed after the approval dated 12 June 2005, but prior to the second approval dated 1 December 2005 by Dr Savoi, whilst the date 22 August 2005 that Madyo purportedly signed the agreement has been deleted. D6  
D10
- 4. The purchase of Oxyntaka plants from Intaka for Installation in all (Provincial) hospitals in the Province**
- 9.058 On 13 April 2006 Mitha sent a third letter to the Tender Board for another deviation from tender procedures and referred to their letter dated 2 December 2005 (this was the letter of approval for the additional 5 oxygen plants already discussed). He refers to: *"based on these calculations (see attached copy) the Department would like to install oxygenators in all hospitals in the Province. Below is a calculation done on Colesberg and Calvinia. These costs are similar for the other hospitals (attach is a copy of National Tender prices)"*. I was not provided with a copy of the National Tender prices in this instance, however I previously referred to such a document. D16  
D11  
D4/4-8  
D4/1-2,  
D8/1-2  
D16/2
- The remainder of the information is a repeat of that provided in Mitha's letters dated 2 July 2005 and 7 September 2005. There is no additional new information and my concerns previously discussed with regard to the plants being monitored and reports being compiled on millstones, objectives achieved, savings realised etc being done and reported on still apply. This submission has been signed by Madyo as HOD and Ms ES Selao MEC of Health and again not by Gaborone on this occasion.
- 9.059 Potgieter prepared Memo 6 dated 15 May 2006. She included the following: D17
- i. *"The Board is reminded that the Oxyntaka machines are for the production of oxygen on site, ending regular oxygen purchase"*; this statement is false and Potgieter has not provided any confirmatory information from the 7 hospitals where the Oxyntaka's had been installed, that regular oxygen purchase had in fact ended.
  - ii. *"The Department re-affirmed that this method of production is economically*

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*justifiable, hence their request for approval to install oxygenators in all hospitals in the Province. Price comparisons between the National Bid and Oxyntaka show a savings of 60% if the latter used"; there is no evidence that a 60% saving was actually realised at the first 7 hospitals and nothing to support that this would be the case for all other hospitals in the Province.*

Potgieter supported the Departments recommendation for the installation of Oxyntaka machines at all other Provincial Hospitals, in the amount of R16 plus VAT per kg of oxygen that will be adjusted by 6% annually or by CPIX as published. It is evident based on the documents examined by me that she once more relied solely on what was presented to in the brief and unqualified Submission of Mitha.

- |       |   |                    |
|-------|---|--------------------|
| 9.060 | The minutes of the meeting of the Provincial Tender Board of 18 May 2006 reflect that the Board under Memo 6 unanimously approved the installation of Oxyntaka machines at all other Provincial Hospitals (excluding the seven sites previously approved), in the amount of R16 plus VAT per kg, that will be adjusted by 6% annually or by CPIX as published. Once more in the absence of a "guaranteed usage" I submit that the Provincial Tender Board approved the amount R16 per kg based on actual quantity of oxygen consumed per month. As previously stated and repeated as it is relevant, I determined as will be discussed later in this report that Intaka invoiced the hospitals in Northern Cape DOH based on a fixed monthly amount that was repeatedly questioned by some of the hospitals. Further, there is no number allocated to the <i>"all other Provincial hospitals"</i> . | D18<br>D18/3       |
| 9.061 | On 19 May 2006 the office of the Tender Board replied to Mitha and referred to the submission dated 13 April 2006. The Provincial Tender Board approved the installation of Oxyntakas at all other Provincial hospitals, in the amount of R16 plus VAT per kg of oxygen. This will be adjusted by 6% annually or by the CPIX as published. A document located in the documents seized by the SAPS from Intaka is a letter from Madyo to Shabbir dated 23 May 2006. The content of the letter confirmed the approval by the Provincial Tender Board. Madyo concluded by requesting Shabbir to proceed with the matter and finalise the extension contract with Intaka.   | D19/1<br><br>D19/2 |

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**5. Agreement entered into between the Northern Cape DOH and Intaka Investments for "all other Provincial hospitals"**

- 9.062 A 4<sup>th</sup> Agreement was signed Dr Savoi representing Intaka Investments (Pty) Ltd and Hamid Shabbir on behalf of Madyo representing the Northern Cape DOH on 28 April 2006. This agreement was located in the documents seized from Intaka. D20/2  
D20/18
- 9.063 Clause 2.3 refers to the lease and maintenance of oxygen plants at 23 hospitals per schedules A to W inclusive attached thereto. The said annexures contain the names of 23 hospitals. The information contained in these schedules is similar to that appearing on the previous schedules for the first 7 hospitals as detailed on the attached spreadsheet compiled by me. Each of the 23 schedules is dated 28 April 2006 and is signed by Dr Savoi and Hamid Shabbir. Alicia Marcos and A Spencer of Intaka appear to have signed the Agreement and each of the 23 schedules as witnesses. D20/2-3  
D20/19  
D21
- 9.064 In between the said schedules are 2 forms: Installation Form; and Acceptance Certificate by Customer, an example of which is relevant to Barkly West hospital. The said forms were based on the dates and content thereof completed once the oxygen plants were commissioned at the various hospitals. I determined that there is an Installation Form and Acceptance Certificate for 21 of the 23 hospitals; the missing forms are for Phillipstown hospital and Joe Slovo Hospital in Garies. However, also attached to the Agreement is an Installation Form and Acceptance Certificate for Olifantshoek hospital. I determined that Phillipstown is a clinic and that the oxygen plant intended for Phillipstown was commissioned at Olifantshoek hospital. An oxygen plant was also commissioned at Joe Slovo hospital in Garies, but I am not in possession of the relevant Installation Form and Acceptance Certificate. D20/20-21  
D20/84-85
- 9.065 Clause 4.5 defines "guaranteed usage" as "the guaranteed year usage stipulated in Schedules A, B, C, D, E, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V and W which is the quantity of oxygen that determines the minimum monthly rental calculated by dividing the guaranteed year usage by 12 (twelve) months". D20/6

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- 9.066 The Provincial Tender approved the procurement for oxygen plants for all other provincial hospitals on 18 May 2006 in the amount of R16 per kg. The Agreement in question was signed prior to the approval date on 28 April 2006 by Dr Savoi and Hamid Shabbir on behalf of Madyo. **D18**
- 9.067 I have also located a copy of a 5<sup>th</sup> Agreement in the Mazars, Moores Rowland working papers (marked page number 2782 to 2814) that were subpoenaed by the SAPS. The Agreement was signed by Dr Savoi representing Intaka Investments (Pty) Ltd and Hamid Shabbir representing the Northern Cape DOH on 29 May 2006. **D20A**
- 9.068 Clause 2.3 refers to the lease and maintenance of oxygen plants at 23 hospitals per schedules A to W inclusive attached thereto. The information contained in these schedules is similar to that appearing on the previous schedules for the 23 hospitals in the 4<sup>th</sup> Agreement referred to herein above. Each of the 23 schedules is dated 29 May 2006 and is signed by Dr Savoi and Hamid Shabbir. Alicia Marcos and Fernando Praderi of Intaka appear to have signed the Agreement and each of the 23 schedules as witnesses. **D20A/2-3**
- 9.069 I obtained copies of the said Agreement in possession of the Northern Cape DOH from 3 different sources, being Gaborone, Mr Thabo Holela, the CFO of the Northern Cape DOH and Ms Heidi Williams, the Personal Assistant of the CEO of Kimberley Hospital Complex, and they are the same. However, the Departments copy contains a handwritten date that reflects Hamid Shabbir signed the Agreement on 31 May 2006 i.e. after the approval date of the Provincial Tender Board. The Agreement however is incomplete: page 10 containing clauses 7.4 to 8.3 is missing. In addition the schedules are a mixture between those attached to previous Agreements and already referred to and discussed by me in the Intaka records seized by the SAPS and new schedules: **D22**
- i. Schedule A is the schedule relevant to the Agreement dated 22 August 2005 (D22/19), but includes the watermark "confidential"; **D14/19**
- ii. Schedule D is the schedule relevant to the Agreement dated 22 August 2005 (D22/22), but includes the watermark "confidential"; **D14/22**
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References in the margin refer to  
 appendix numbers

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|------|---|------------|
| iii. | Schedule F is the schedule relevant to the Agreement dated 22 August 2005 (D22/24), but includes the watermark "confidential";  | D14/24     |
| iv.  | Schedule K differs to schedule K of the Intaka copy (D22/29) as it is now dated 29 May 2006 as opposed to the Intaka copy which is dated 28 April 2006 and the signatures differ. The name of the hospital and the other details including the price of R16.00 per kg are however the same on both copies.  | D20/49     |
| v.   | Schedules C, E, G, H, I, J, L, M and N (D22/21, 23, 25, 26, 27, 28,30,31 and 32) differ to the corresponding schedules in the Intaka copy as an additional handwritten date of 31 May 2006 has been added and signed by Hamid Shabbir and the signatures differ. The names of the hospital and the other details including the price of R16.00 per kg are however the same of both sets of copies;  | D22<br>D20 |
| vi.  | Schedules O, P, Q, R, S, T, V and W (D22/33, 34, 35, 36, 37, 38 and 40) differs to the corresponding schedules in the Intaka copy as an additional handwritten date of 31 May 2006 has been added and signed by Hamid Shabbir and the signatures differ. The names of the hospital and the other details are however the same of both sets of copies, but significantly the price has increased to R22.00 per kg on the Departments copy. | D22<br>D20 |
| vii. | Schedule U is missing from the Departments copy.  |            |
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- |       |  |   |
|-------|--|---|
| 9.070 | Based upon examination of the Agreement in Intaka's records compared to that in the Departments records for the 23 additional provincial hospitals as detailed above, it is evident that the Schedules to the Agreement differ significantly. In addition the Intaka copy reflects Hamid Shabbir signed the Agreement on 28 April 2006, whilst the Departments copy reflects he signed it on 31 May 2006. One would expect the 2 parties to have identical copies. However, I located amongst the documents seized by the SAPS from Intaka a letter dated 5 June 2006 from Intaka to Shabbir. It refers to the "Original Contract" dated 28 April 2006 and the "Subsequent Contract" dated 29 May 2006. Inataka has referred an omission in the Original Contract regarding ownership of the equipment and " <i>As a consequence the parties agreed to enter into a Subsequent Contract to introduce additional provisions to give effect to the parties' original intentions together with any consequential amendments brought about by such changes</i> ". It is concluded that " <i>the parties hereby record and agree that the</i> | D20<br>D22<br><br><br><br><br><br><br><br><br><br>D23 |
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*Subsequent Contract constitutes the entire agreement and understanding of the parties with respect to its subject matter and supersedes and extinguishes the Original Contract together with any representations previously given or made other than those included in the Subsequent Contract". It appears to have been signed by Dr Savoi on behalf of Intaka and Shabbir on behalf of Northern Cape DOH.*

- 9.071 I examined the 2 Agreements referred to and discussed by me. Clause 10.2 of the Agreement located in Intaka records dated 28 April 2006 makes provision for the transfer of ownership of the equipment, whilst the Agreement in the Departments records dated 28 May 2006 (and a further handwritten date of 31 May 2006) does not contain a clause 10.2. The date of the Subsequent Contract that contains the additional transfer of ownership being 31 May 2006 according to Intaka, does not correspond with the 2 Agreements in question discussed by me above. Intaka's letter dated 5 June 2006 further does not explain why the Schedules differ significantly. D20/11  
D22/10
- 9.072 I further located amongst the documents seized by the SAPS from Intaka a letter dated 19 June 2006 from Shabbir to Dr Savoi. He commences as follows: "It is to inform you the Northern Cape Department of Health has conducted a performance review on the Oxyntaka and Wataka plants in the following hospitals". He then lists 7 hospitals being those 7 first approved by the Provincial Tender Board on 13 July 2005 and 1 December 2005. He further lists the key benefits and efficiency output, that includes the following for the oxygen plants: D24  
D6  
D10
- 1) A definitive cost saving based on usage and consumption of medical gases as compared to historical spending;
  - 2) No charge for medical air, as it is provided free;
  - 3) Improved access and better clinical outcomes, due to the provision of piping and gas outlets, within the clinical areas. This has resulted in improved efficiencies by reducing the cylinder transportation within the hospitals;
  - 4) A complete ownership of the pipelines and gas outlets;
  - 5) Provision of system backup facilities at no cost to the department;
  - 6) Electrical power supply back up at no cost to the department.

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9.073 I wish to state that the above letter and purported benefits is not supported by any "performance review" as eluded to by Shabbir that I am aware of. In fact contrary to the above I later determined that the costs increased substantially and that back up supply of oxygen had to be continued to be procured from Afrox. Hence, the letter of Shabbir is misleading and contains a number of misrepresentations. I will later in this report discuss an investigation conducted by the Auditor General (AG) and replies received from 4 hospitals in the Northern Cape DOH. I do however at this stage wish to refer to a letter dated 26 May 2006 from Mr Moncho, Hospital Manager Gordonia Hospital to Shabbir i.e. a month prior to Shabbir's "key benefits and efficiency outputs" letter to Dr Savoi dated 19 June 2006. I was provided with a copy of this letter by both the AG and Mr Moncho. This letter reflects an increase in the price of oxygen by more than 100%; this and other letters from Mr Moncho contradict Shabbir's letter of 19 June 2006, that will be discussed in more detail later in this report.

E7/7-8

D24

**6. Interviews with Northern Cape DOH Technical Officials**

9.074 An interview was conducted with Vincent Halvey (Halvey) Manager Mechanical Engineering, Northern Cape DOH. He was first mentioned in documents obtained from KZN Health when we performed the investigation into the procurement of oxygen plants by KZN Health from Intaka. I determined that Halvey was employed by Northern Cape Health during the period 1986 to February 2008, at the time Halvey was Deputy Director, Head of Engineering and Clinical Support Services; he then left to take up employment at Intaka. He thereafter resigned from Intaka on 30 June 2010 and rejoined Northern Cape Health on 1 July 2010 where he is currently employed. Detailed below is a summary of an interview with him:

- 1) He had no knowledge of how the oxygen plants were procured and his involvement was limited to the commissioning process.
- 2) He was not consulted with from a technical perspective and was not requested to nor did he draw up any specifications at any stage.
- 3) He was first called to Shabbir's office to facilitate the implementation of the plants at Calvinia and Colesberg hospitals that was part of a pilot project;

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- 4) He was thereafter informed that the Department had appointed Intaka to provide a further 5 oxygen plants and thereafter plants for all other hospitals;
- 5) He was not personally involved in the commissioning but facilitated the process between Intaka and the hospital staff;
- 6) He provided a breakdown of the thirty (30) x oxygen plants commissioned to date in the Northern Cape DOH. Fourteen (14) of the 30 hospitals where the Intaka Oxyntaka plants have been commissioned require oxygen cylinders for the purposes of a back up supply that is provided by Afrox. These cylinders are for the larger hospitals. The remaining sixteen (16) of the 30 hospitals where the Intaka Oxyntaka plants have been commissioned require the 10.2kg and smaller 4.6kg oxygen cylinder holdings for the purposes of a back up supply that is also provided by Afrox;
- 7) Kimberley hospital being 1 of the 14 hospitals referred to above, has in addition a bulk tank of liquid oxygen for the purposes of a back up supply that is also provided by Afrox;
- 8) He confirmed that the Intaka Oxyntaka plants do not come with the supply of oxygen cylinders for back up and hence the continued use of Afrox as a supplier;
- 9) He has no knowledge of how it was agreed that the Department agreed to pay Intaka for a guaranteed monthly usage of oxygen as he was not involved in this process;

9.075 Halvey provided an affidavit detailing his involvement in the procurement and implementation phases of the oxygen plants. F1

9.076 An interview was conducted with Mr Clifton Saltwater (**Saltwater**), Senior Artisan Superintendent Technical Support Services, Kimberley Hospital. At the time Halvey was Deputy Director, Head of Engineering and Clinical Support Services and Saltwater reported to him. He provided the following additional information:

- i. He was aware that the Provincial Tender Board approved a submission to award a tender to Intaka for the supply of Oxyntaka machines at various Hospitals in the Department. He was not involved in the procurement process

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and has no knowledge of how these services were procured.

- ii. Halvey facilitated the commissioning of the Oxyntaka Generators as far as Saltwater could recall. The Department experienced problems with the emergency generators at several institutions as a result of the Oxyntaka Units because of the additional electricity required by these units and hence the emergency generators could not cope with the increased demand of energy required. He prepared a Memorandum addressed to Halvey titled "Emergency Standby Generators at Hospitals in the Province" dated 30 January 2007 wherein he reported the problems that had been experienced at the various institutions. Halvey then attended to the matter.

- 9.077 Saltwater provided an affidavit detailing his involvement in the procurement and implementation phases of the oxygen plants.

**F2**

**7. Interview with Mr Jefferson Baloyi**

- 9.078 Jefferson Baloyi is an Assistant Director SCM Demand Section. At the time the plants were procured he reported to Mitha, Director SCM. Mitha's personal assistant at the time the late Ms Truia Deetlifs was responsible for general administrative duties and he assisted her in this role. He has no knowledge of any of the Submission submitted by Mitha and is unaware of how the Department procured the oxygen plants. He provided an affidavit detailing his involvement in the procurement of the oxygen plants.

**F3**

**8. Interviews with members of the Provincial Tender Board and the Secretariat**

- 9.079 Interviews were conducted with members of the Provincial Tender Board who could be traced as detailed below:

**Philipene Potgieter**

- 9.080 Potgieter is the Director Asset Management, Northern Cape Provincial Treasury. At

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the time 2005 and 2006 when the Submissions were made by Mitha to the Provincial Tender Board she was the Secretariat for the Provincial Tender Board. I have already referred to her and that she alleges she did not recall the matter. She provided the following documents already referred to in this report in respect of the Submissions for: Calvinia and Colesberg Hospitals: Upington, Kimberley, Kuruman, De Aar and Springbok; and all other hospitals in the Northern Cape DOH.

**Supply of two (2) x Oxyntaka self-generating oxygen plants by Intaka**

- i. A memorandum from the Office of the Provincial Tender Board titled "Memo 7" with file reference number TP4/1/15-G dated 12 July 2005 with the supporting documentation attached thereto as listed hereunder.
- ii. A memorandum from the Office of the Provincial Tender Board titled "Memo 8" with file reference number TP4/1/15-G titled "Deviation from Tender Procedures: Acquisition of Oxygenator: Department of Health" dated 23 June 2005.
- iii. A letter from Mr S Mitha addressed to Ms P Potgieter of the Tender Board titled "Deviation of Tender- Oxygenator" dated 17 June 2005
- iv. A letter from Mr S Mitha addressed to Ms P Potgieter of the Tender Board titled "Deviation from Tender Procedures: Acquisition of Oxygenator" dated 2 July 2005.
- v. A fax from Fernando Praderi addressed to Mr Williams of the Department of Finance, Northern Cape Province titled "Oxyntaka medical oxygen and medical air self-generating unit" dated 23 June 2005.
- vi. Minutes of the Provincial Tender Board Committee Meeting held on 13 July 2005.
- vii. A letter from the Office of the Provincial Tender Board addressed to Mr S Mitha of the Department of Health titled "Deviation from Tender Procedures: Acquisition of Oxygenators" dated 13 July 2005.

**Supply of five (5) x Oxyntaka self-generating oxygen plants by Intaka**

- i. A memorandum from the Office of the Provincial Tender Board titled "Memo

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- 6" with file reference number TP4/1/15-G dated 28 November 2005 with the supporting documentation attached thereto as listed hereunder.
- ii. A letter from Mr S Mitha addressed to Ms P Potgieter of the Tender Board titled "Deviation from Tender Procedures: Acquisition of Oxygenator" dated 7 September 2005
  - iii. Minutes of the Provincial Tender Board Meeting held on 1 December 2005.
  - iv. A letter from the Office of the Provincial Tender Board addressed to Mr S Mitha of the Department of Health titled "Deviation from Tender Procedures: Acquisition of Oxygenators" dated 2 December 2005.

**Supply of Oxyntaka self-generating oxygen plants to all other Provincial Hospitals by Intaka**

- i. A memorandum from the Office of the Provincial Tender Board titled "Memo 6" with file reference number TP4/1/15-G dated 15 May 2006 with the supporting documentation attached thereto as listed hereunder.
- ii. A letter from Mr S Mitha addressed to Ms P Potgieter of the Tender Board titled "Deviation from Tender Procedures: Acquisition of Oxygenator" dated 13 April 2006.
- iii. Notice of a Tender Board Meeting of a Provincial Tender Board to be held on 18 May 2006.
- iv. Minutes of a Special Meeting of the Provincial Tender Board Committee held on 18 May 2006.
- v. A letter from the Office of the Provincial Tender Board addressed to Mr S Mitha of the Department of Health titled "Deviation from Tender Procedures: Acquisition of Oxygenators" dated 19 May 2006.

9,081 Potgieter provided an affidavit and attached the documentation referred to above. I wish to add that Potgieter refers to PwC not following protocol by not informing her Head of Department, Northern Cape Provincial Treasury. I wish to state that I, together with a SAPS representative, Capt (f) H Myburgh had prior to the investigation commencing held a meeting with the Head of Northern Cape Department of Health and the CFO of the Northern Cape DOH where I informed

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them of PwC's appointment by National Treasury and provided them with a copy of our appointment. The CFO then communicated with the Northern Cape Provincial Treasury, requested documents from them and subsequently handed over these documents to PwC. Hence, the Head of Northern Cape Provincial Treasury was aware of our appointment and hence I dispute Potgieters statement that we did not follow protocol. Despite this I do not know what the relevance is as Potgieter handed over the requested documents and it should further not impact on her ability to recall the matters in 2005 and 2006.

**Anna Margaretha van Niekerk**

9.082 Anna van Niekerk is a private sector person and the owner of Diamond Pak. She was nominated by the Northern Cape Chamber of Commerce and Industry (NOCCHI) to represent the private business sector in the Northern Cape on the Provincial Tender Board. She was a member of the Provincial Tender Board who adjudicated on the 2 oxygen plants for Colesberg and Calvinia and the subsequent five for Upington, Kimberly, Kuruman, De Aar and Springbok hospitals. She confirmed the procedure was that the members of the Provincial Tender Board would receive the documentation and Memo prepared by Potgieter a day or two before the meeting. She further confirmed receiving all relevant documents, as detailed by Potgieter above, including the Submissions by Mitha. She received them in good faith believing them to be authentic and made the recommendations to award to Intaka.

9.083 She added that Gaborone was present during the 1<sup>st</sup> meeting of the Tender Board as a representative of the Department and was in a position to advise the Tender Board on any aspects that require clarity. Further, the Tender Board did not call anybody to provide any advise on technical aspects, according to the minutes in or possession.

9.084 Anna van Niekerk provided an affidavit confirming her involvement in the procurement of the oxygen plants as a member of the Provincial Tender Board.

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**Magdalena Petronella Vosloo**

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9.085 Magdalena Vosloo is a Manager SCM, Northern Cape Department of Social Development. She was a member of the Provincial Tender Board since 2004 until it was phased out in approximately June 2006.

9.086 She was a member and was present when the Provincial Tender Board approved all three (3) x Submissions made by Mitha and the Northern Cape DOH being:

- i. Calvinia and Colesberg hospitals;
- ii. Upington, Kimberly, Kuruman, De Aar and Springbok hospitals; and
- iii. All other hospitals in the Northern Cape DOH.

She could not recall the specific awards. She also confirmed the procedure was that the members of the Provincial Tender Board would receive the documentation and Memo prepared by Potgieter a day or two before the meeting. She further confirmed receiving all relevant documents, as detailed by Potgieter above including the Submissions by Mitha. She received them in good faith and recommended the respective awards.

9.087 She added that Gaborone was present during the 1<sup>st</sup> meeting of the Tender Board as a representative of the Department and was in a position to advise the Tender Board on any aspects that require clarity. Further, the Tender Board did not call anybody to provide any advise on technical aspects.

9.088 She provided an affidavit confirming her involvement in the procurement of the oxygen plants as a member of the Provincial Tender Board.

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**Abdul Kazie**

9.089 Abdul Kazie is a private sector person and a member of AM Kazie Accountants. He applied to be a member of the Provincial Tender Board in late 1998 and became the chairperson in 2004 as far as he could recall until it was phased out. He attended the 2<sup>nd</sup> meeting of the Tender Board for Upington, Kimberly, Kuruman, De Aar and Springbok hospitals, as Chairman. He did not recall the specific award, but commented on the minutes of the meeting as discussed below.

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9.090 The minutes of the said meeting reads that "*Installation is free of charge and an amount of R16 plus VAT is payable per kg of Oxygen*". His understanding of this statement is that the Department will pay R16 per kg of oxygen for actual monthly usage per hospital; there is no indication in the submission or minutes of the meeting that the Department would agree to pay for a Guaranteed Minimum amount of oxygen or based on a fixed amount of oxygen per month. He accepted the submission that was addressed to the Tender Board with the supporting documentation in good faith and hence recommended the award. The approval was based on the Tender Board's prior approval of the two (2) x Oxyntaka units for Calvinia and Colesberg Hospitals. The second paragraph of Memorandum 6 dated 28 November 2005 reads that "*The department informed this Office that the viability of the Oxyntaka machines are positive*". The Provincial Tender Board placed a lot of reliance on the initial submission and hence approved the award to Intaka, according to Abdul Kazie.

9.091 He provided an affidavit confirming his involvement in the procurement of the oxygen plants as a member of the Provincial Tender Board.

F7

9.092 I wish to add that based on the explanations offered by the aforementioned members of the Provincial Tender Board and the minutes of the meetings of the Tender Board, it is evident that no person or official was requested to provide any information from a technical perspective in relation to the oxygen plants, their capabilities, including back up and that a comprehensive needs analysis had been done and the sites identified. It is my submission that the Provincial Tender Board merely accepted what Mitha had included in his Submissions that was repeated by Potgieter in her Memo's and that they did not request any additional information. It is evident that none of the members of the Provincial Tender Board can be deemed to be a technical person knowledgeable in oxygen plants.

**9. Reports by Abraham Esau Hospital (Calvinia) and Manne Dipico  
Hospital (Colesberg)**

9.093 I determined that an investigation was conducted by the Auditor General (AG) into



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the financial affairs of the Department of Health, Northern Cape. I wish to refer to the investigation by the AG into Abraham Esau and Manne Dipico Hospitals in Calvinia and Colesberg respectively, as these were the 1<sup>st</sup> two hospitals for which Mitha submitted a Submission to the Tender Board.

- 9.094 Mitha's Submission included a "Comparative Oxygen Consumption Cost" schedule that concluded there would be savings of more than 60%, and even more as the medical air supply is free of charge. I was provided with a copy of a letter from the AG addressed to the Hospital Manager of Abraham Esau Hospital dated 14 April 2008. The AG has requested a number of answers to questions put forward in so far as the Oxyntaka commissioned at the hospital in question is concerned. The reply from Abraham Esau Hospital is dated 30 April 2008. The following answers are significant:
- D4/3  
E4/1-3  
E4/4-5
- i. It is difficult to measure the oxygen consumption of the Oxyntaka supply, as there are no specifications in the contract and consequently comparing the two (minimum supply to the hospitals needs) is impossible;
  - ii. The Oxyntaka does not display the reading (in response to what the reading is in cubic meters); it only displays the oxygen purity, compressor and concentrator work time. Indications are that this particular machine is of the earlier models and not as advanced as some of the later models installed after the Abraham Esau hospital one;
  - iii. The total payments to Intaka to date is R1,495,976.40 (2 years and 6 months being October 2005 to April 2008). Total payments to Afrox from 2004 to date i.e. approximately a 4 year period, is R554,630.49 including rental and supply;
  - iv. It is not clear what the objective for the installation of the machine was since the hospital still rents cylinders and procures oxygen from Afrox, practically paying two suppliers concurrently for the same service rendered simultaneously;
  - v. Queries were raised with the legal department around the absence of a contract and service level agreement at facility (hospital) level and with the finance department about payment of the supplier.

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- 9.095 I was provided with a copy of a letter from the AG addressed to the Hospital Manager of Manne Dipico Hospital dated 14 April 2008. The AG has requested a number of answers to questions put forward in so far as the Oxyntaka commissioned at the hospital in question is concerned. The reply from Manne Dipico Hospital is dated 17 April 2008. The following answers are significant:
- E5/1-3
- E5/4-5
- i. The contract was not discussed with the facility manager, everything was handled by province. The hospital uses 40 Afrox cylinders a month which amounts to approximately R6,000 despite having the Intaka plant that costs approximately R60,000 per month;
  - ii. The minimum oxygen supply (paid to Intaka) is too high given the fact that they still purchase the 40 cylinders from Afrox;
  - iii. The writer (T Landu) refused to make any payments to Intaka as he did not understand properly how much was to be paid. Landu alleged further that he was suspended and upon return to work determined that the outstanding balance to Intaka was authorised by the District Manager Mrs Eckard;
  - iv. Total payments made to Afrox per year is approximately R200,000 for rental and R6,000 per month for usage i.e. R72,000 plus R200,000 equals R272,000. The attached invoice reflects R54,720 per month to Intaka which amounts to R656,640 per year i.e. more than double what is still paid to Afrox.
- E5/6

**10. Reports by Sutherland and Gordonia Hospitals**

- 9.096 These 2 hospitals were also part of the investigation conducted by the AG into the financial affairs of the Department of Health, Northern Cape. I was provided with a copy of a letter from the AG addressed to the Hospital Manager of Sutherland Hospital dated 2 June 2008. The AG has requested a number of answers to questions put forward in so far as the Oxyntaka commissioned at the hospital in question is concerned. The reply from Sutherland Hospital is dated 6 June 2008 and is in Afrikaans. The following answers are significant:
- E6/1-2
- E6/3-4
- i. The Commissioning was done on 27 October 2006.

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- ii. The Oxyntaka was operational from December 2006 after the power was reconnected.
- iii. The rental per month is based on a minimum usage of 830kg, per the attached invoice.
- iv. The minimum paid for is far in excess of the requirements of the facility, Sutherland is no longer a hospital but a community health centre. The majority of patients are transferred or referred (to other institutions), although Oxygen is used but only in cases of emergency. Weeks go by without any oxygen being used and never for a continuously long time.
- v. Have no idea where the budget comes from for payments to Intaka, although administer the payments and authorise same.
- vi. Still make use of Afrox in cases where there is a power failure or the Oxyntaka is faulty.
- vii. The total payments made to Afrox for the period 1 April 2003 to January 2007 for oxygen and hiring of cylinders (i.e. approximately 3 years and 9 months) amounted to R56,812.59. The total payments made to Intaka for a 17 month period (January 2007 to May 2008) amounted to R245,439.64.

9.097 Based on these figures Afrox were paid on average R1,262.50 per month (R56,812.59 over a period of 45 months). Intaka is being paid R16,407.11 per month.

9.098 I further wish to refer to a similar investigation at Gordonia Hospital. I was provided with a copy of a letter from the AG addressed to the Hospital Manager of Gordonia Hospital dated 14 April 2008. The AG has requested answers on similar questions put to Sutherland Hospital, in so far as the Oxyntaka commissioned at Gordonia hospital is concerned. The reply from Gordonia hospital is dated 17 April 2008. The following answers are significant:

E7/1-2

E7/3-6

- i. The Commissioning was done on 13 March 2006.
- ii. The Oxyntaka was operational from May 2006.
- iii. The rental per month is based on a minimum usage of 7586kg.
- iv. The minimum usage is too high when compared to the needs of the hospital. The old meter reflected a (actual) reading of 1503kg's per month,

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whilst the new meter a reading of 2833.15kg's per month. Afrox reading dating back to 2003 reflected an average use of only 1295.09kg's per month.

- v. They still procure from Afrox in cases: where back up is required when the plant breaks down; when the electricity is off; and home patients requiring continuous O2 therapy.
- vi. The total payments made to Afrox for the period 2003 to 2008 (five years) for oxygen amounts to R1,676,215.81 and rental of cylinders for the period 2003 to 2007 (4 years) amounted to R1,255,999.30. The total paid to Afrox is therefore R2,932,215.11, that includes 2007 and 2008 where Intaka were the suppliers of self generating Oxygen. The total payments made to Intaka for a 2 year period (May 2006 to April 2008) amounted to R3,427,419 (this again is a contradiction in the extreme of Mitha's motivation of savings of more than 60%).
- vii. Oxyntaka is being paid for amounting to R138,313.92 per month based on a fixed charge of 7,583kg's (not 7,586 kg's as set out in Moncho's letter dated 17 April 2008) per month. The hospital first questioned this on 26 May 2006 in a letter sent to Hamid Shabbir by Mr GI Moncho, Hospital Manager. He raised a few issues from a practical and financial aspect:
  - As the running cost of the plant was unknown and is still unknown to the hospital they only budgeted for the Afrox agreement being R720,000 per year including rental and consumption;
  - There will still be cost implications for Afrox for the oxygen bank and emergency back-up;
  - The initial assessment of the number of points was not accepted by the service provider and the hospital had to cut back on the number of points; there still exists a critical need for additional points;
  - Failure to install additional points would require the hospital to keep bottled oxygen;
  - There is no medical back-up air banks and this can lead to medical legal implications in the future;
  - The financial implications to the hospital are of a huge concern; the cost for oxygen and medicinal air from Afrox for the period 1 January

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2005 to 31 December 2005 was R768,315.68, including rental of cylinders, that equates to R64,026.31 per month. The Intaka plant monthly cost is R138,313.92 that is an increase of more than 100%;

- They are not in possession of the contractual agreement and have never seen it and can therefore not confirm when the billing came into effect;
- The hospital requested clarity on the monthly cost as it appeared to be alarmingly high.

- viii. There is no record that Shabbir replied to the said letter from Gordonia Hospital dated 26 May 2006. These questions continued from the hospital up to and including August 2007, however it appears that the hospital started communicating directly with Intaka, despite them not being involved in any prior agreement or discussions with Intaka.

9.099 I wish to briefly refer to a letter from Mr Moncho to Intaka dated 21 December 2006 relating to clarity sought on invoices for oxygen consumed at Gordonia Hospital. In terms thereof the usage for the period May 2006 to November 2006 was recorded as follows:

E7/36

|   | Month                          | Usage Kg's     |
|---|--------------------------------|----------------|
| 1 | May 2006                       | 126.43         |
| 2 | June 2006                      | 1273.9         |
| 3 | July 2006                      | 2130           |
| 4 | August 2006                    | 703            |
| 5 | September 2006                 | 746            |
| 6 | October 2006                   | 624            |
| 7 | November 2006                  | 985            |
|   | <b>Total</b>                   | <b>6588.33</b> |
|   | <b>Average usage per month</b> | <b>941.19</b>  |

9.0100 Intaka was invoicing Gordonia Hospital based on a fixed rate of 7,583 kg per month. This was more than the actual usage for the 7 month period referred to above. Intaka would have been paid R16.00 per kg x 6588.33kg for actual usage amounting to R120,771.14 (inclusive of VAT). Intaka were paid R16.00 per kg x 7,583 kg x 7

E7/36

E7/38-42

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months for a fixed monthly usage amounting to R968,197.44 (inclusive of VAT).

9.0101 Mr Moncho the current Head of Kimberley Hospital Complex and the Hospital Manager of Gordonia at the time was interviewed. He confirmed the above explanation to the AG and the correspondence attached. He further confirmed that he stopped paying Intaka as he refused to do so, because the hospital was paying for a fixed rate of usage that far exceeded actual usage and that they had not been involved in any form of communication with Intaka nor were they privy to the Agreement entered into between the Department and Intaka. The matter was resolved by Intaka in their invoices providing a description: "Oxygen supply in terms of contract" as opposed to "rental in terms of contract" and "7,583 kg". I previously referred to this change in the wording of the invoices. Moncho advised that a file was retained by him at Gordonia Hospital and provided a copy of the file. The file contains documents relevant to the commissioning of the oxygen plants and water purification plants provided by Intaka to Gordonia Hospital. The majority of the documents have been attached to Mr Moncho's reply supplied to the AG as detailed above and there are very few documents of relevance subsequent to the AG investigation, apart from that detailed below:

C2/56-57

E8

- 1) An Intaka Client Satisfaction Survey Questionnaire dated 25 March 2008 was completed by Wilhelm Stemmet of Gordonia Hospital. Two issues raised under any other comments was the hospital did not receive a contract and the oxygen bill was up more than R1 million per year.
- 2) Intaka replied on 7 May 2008 and referred to an attached letter dated 23 February 2007 that included the contract and Intaka's invoices for the hospital.
- 3) Intaka replied that they could not provide Gordonia Hospital with a copy of the Agreement as this was entered into between Intaka and the Northern Cape DOH, and the request for a copy should be made to the Department.
- 4) They replied further that the information on the invoices are per the instructions received on 23 February 2007. Significantly Intaka did not refer to the alleged increase of more than R1 million per year at all.
- 5) The letter of 23 February 2007 includes the following as it relates to "Queries

E8/1

E8/2-3

E8/4-5

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*on invoices from Oxyntaka”:*

*“With regard the first point it was clear that the absence of a service level agreement or contract governing the provision of services to our institution caused major confusion in the interpretation of the invoices received by us. If we could elaborate we were not aware that there is a fixed rate of payment for each facility as per contract. However, this explained the first query on the consistency of amounts reflected on our invoices”.*

*“The description part of the invoice would be reviewed to indicate only services rendered as per contract and not based on consumption rates”.*

**11. Northern Cape DOH officials involved in the procurement procedures for the Oxyntaka plants purchased from Intaka**

9.100 I have discussed the role played by Mitha, Gaborone, Madyo and Shabbir in the respective procurement procedures for the Oxyntaka plants purchased from Intaka. I wish to briefly refer to their official positions at the time as contained in their personal records maintained by the Northern Cape DOH.

**i. Sanjay Mitha**

9.101 I determined from the Departments Persal records that SK Mitha (Mitha) was employed by the Northern Cape DOH; he was appointed on 1 April 1998 and resigned on 30 June 2007. A letter on a Department of Health letterhead dated 30 March 2005 contained in his personal file maintained by the Northern Cape DOH, reflects that Mitha was appointed to the post of Director: Hospital Revitalisation and Infrastructural Development effective 1 April 2005. On the date of assumption of duty he was to report the office of the Head of Department, Kimberley Office Complex. A further letter on Department of Health letterhead dated 27 October 2006 contained in his personal file reflects that Mitha was relocated from the Hospital Revitalisation Component to Supply Chain Management effective 1 November 2006. A curriculum vitae attached to the bundle of documents relating to the aforementioned post, reflects his full names as Sanjay Kumar Mitha with identity number 710129 5016 082. Two of his references are Mr DD Madyo, HOD, Department of Health, Northern Cape

**G1/1-3**

**G1/4-5**

**G1/6**

**G1/7-12**

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Province and Dr H Shabbir, CEO, Kimberley Hospital Complex.

**ii. Daniel Gaborone**

- 9.102 I determined from the Departments Persal records that DM Gaborone (**Gaborone**) id G2/1-3  
 690815 5655 085 is employed by the Northern Cape DOH. He was appointed on 1  
 July 2000 and is still employed by the said Department. A letter on a Department of G2/4  
 Health letterhead dated 11 July 2000 contained in his personal file maintained by the  
 Northern Cape DOH, confirms the said appointment as a Deputy Director. His was G2/5-6  
 appointed as Chief Financial Officer (CFO) for the Northern Cape DOH for a period of  
 5 years with effect from 1 January 2002, in terms of a letter issued to him dated 30  
 November 2001. The appointment was accepted by him in terms of an undated G2/7  
 "Acceptance of offer of employment". He further signed a Senior Management  
 Performance Agreement for the period 1 April 2006 to 31 March 2007, on 26 October G2/8-15  
 2006, at which time he was still the CFO. I understand that Gaborone is currently the  
 CFO of the Kimberley Hospital Complex.

**iii. Deon Madyo**

- 9.103 I determined from the Departments Persal records that Deon Danile Madyo (**Madyo**) G3/1-3  
 identity number 691220 5421 084 was employed by the Northern Cape DOH; he was  
 appointed on 1 July 1998 and resigned on 4 August 2006, at which time he was  
 Deputy Director General. I understand that he was the Head of Department (HOD)  
 during the period of the procurement of the oxyntaka and water purification plants. I  
 have not been provided with his personal file.

**iv. Hamid Shabbir**

- 9.104 I determined from the Departments Persal records that Hamid Shabbir (**Shabbir**) G4/1-3  
 identity number 650703 5878 089 was employed by the Northern Cape DOH; he was  
 appointed on 1 August 1993 and resigned on 20 August 2008, at which time he was  
 the Chief Executive Officer (CEO) of Kimberley Hospital. His resignation was G4/4  
 confirmed in a letter dated 19 July 2008 contained in his personal file maintained by  
 the Northern Cape DOH. A further document titled "Hamid Shabbir" under Career G4/5-8

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Progression reflects the following:

- 1) Acting CEO Kimberley Hospital Complex since 2003;
- 2) Medical Director Kimberley Hospital Complex June 2001 to September 2003;
- 3) Principal Medical Officer Kimberley Hospital Complex August 1993 to May 2001.

In terms of a Northern Cape DOH letter dated 31 August 2004 he was appointed CEO of Kimberley Hospital Complex with effect from 1 August 2004.

G4/9-10

**12. Northern Cape DOH officials linked to entities who entered into Agreements with Intaka and/or who received commissions or other payments from Intaka**

- 9.105 I determined that a number of entities linked to Northern Cape DOH officials entered into agreements with and/or received commission payments from Intaka for the sale of Oxyntaka plants to Northern Cape DOH. This report excludes commission payments to entities from Intaka for the sale of water purification plants and Dialysis machines to Northern Cape DOH as these are covered in separate reports.

**Stratfit cc trading as Watertech and Rehman Enterprises**

- 9.106 I however, wish to refer to an entity known as Stratfit cc trading as Watertech (**Watertech**) that is linked to Shabbir, that did not in terms of my findings receive payments from Intaka for the oxygen plants. I determined that Watertech received payments amounting to R4,754,386 from Intaka for the water purification plants purchased by the Northern Cape DOH. I further determined that Rehman Enterprises an entity based in Pakistan and linked to Shabbir's father received payments amounting to R2,631,578.94 from Intaka for the water purification plants purchased by the Northern Cape DOH. I examined the bank statements of Watertech subpoenaed by the SAPS and did not identify any payments made by Intaka to Watertech or Rehman Enterprises that may be linked to the purchase of oxygen plants by Northern Cape DOH. However, I wish to refer to the Watertech bank account in order to reveal the relationship between Shabbir and Dr Maqbool.

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- 9.107 Stratfit cc Standard Bank account number 040090116 was subpoenaed by the **H1**  
 SAPS. The Application to open an Enterprise/ Business account, reflects the  
 following:
- 1) The document was completed in respect of Chapel Street branch and is dated 19  
 December 2006;
  - 2) The postal address is furnished as PO Box 3211, Kimberley. This is the same  
 postal address provided by Shabbir on a form Z864 National Treasury Pensions  
 Administration Personal Particulars in the personal file of Shabbir previously **G4/12**  
 discussed;
  - 3) The type of business conducted is recorded as Hotel and Restaurant;
  - 4) Dr Maqbool is recorded as the Manager with contact telephone number 053-  
 8331472;
  - 5) The references are: Meridian Hotel Dr Maqbool telephone number 082 468 3982;  
 and Dr Shabbir telephone number 083 411 9017. The contact telephone for Dr  
 Maqbool is the same number as that provided by Saima Shahzad as sole  
 member on page 2 of the Application. Her address is furnished as 20 Kestel  
 Street, Monument Heights. Shabbir's address on the form Z864 is 16 Kestel **G4/12**  
 Street, Monument Heights.
- 9.108 I conducted a Consumer Report enquiry on Shabbir. His address is listed as PO Box **B5**  
 3211, Kimberley, being the address of Watertech per Standard bank records and 16  
 Kestel Street, Kimberley. I also conducted a Consumer Report enquiry on Saima **B6**  
 Shahzad. One of her addresses is 20 Kestel Street, Kimberley. Under employer  
 information the name Dr Maqbool is recorded. I further determined from a Kredit  
 search report that an entity known as Kim Corp 960 cc with registration number **B7**  
 2004/097688/23 was registered on 16/09/2004. Shabbir is an active principal and his  
 address is recorded as 16 Kestell Street, Kimberley. Shahzad Maqbool is another  
 active member and his address is listed as 20 Kestell Street, Kimberley; and hence  
 the name Shahzad is the same as Saima Shahzad.
- 9.109 I examined the personal file of Shazhad Maqbool maintained by the Northern Cape **G6**  
 DOH and determined the following:
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- |   |  |
|---|--|
| 1) A copy of his identity number reflects his full names as Shahzad Maqbool id 640601 6044 185, born in Pakistan and issued on 1994/09/27.  | <b>G6/1</b>                                |
| 2) A Persal Administration: NC Health: Enquiry Service Record dated 16 April 2009 reflects he was appointed on 13 February 2001 and was still employed by the Department on 16 April 2009.  | <b>G6/2</b><br><b>G6/3</b>                 |
| 3) A Northern Cape DOH letter dated 16 April 2009 reflects that Shahzad Maqbool ID 640601 6044 086 worked in the Kimberley Hospital Complex from 1 September 2001 to date (being 16 April 2009).  | <b>G6/4</b>                                |
| 4) Page 1 of a form National Treasury Pensions Administration Withdrawal from Fund, reflects he resigned on 31 January 2010.  | <b>G6/5</b>                                |
| 5) A "Naeem Translation House", Islamabad form is a Marriage Certificate. It reflects that Shahzad Maqbool date of birth 01/06/2004 was married to Saima Mazhar dated of birth 31/07/1970, on 12 November 1994.   | <b>G6/6-7</b>                              |
| 6) A Republic of South Africa Permit for Permanent Residence reflects that the permit was issued to Shahzad Maqbool on 5 July 1993. Attached is a certified copy of birth entry no 55/96 issued in Lahore on 14/03/1996. It reflects that infant as Dania, the fathers name as Shahzad Maqbool and the mothers name as Saima Shahzad. Also attached to these 2 documents is a copy of an identity book of Saima Shahzad; it reflects her id 700731 0627 185, born in Pakistan and issued on 1998/07/08. | <b>G6/8</b><br><b>G6/9</b><br><b>G6/10</b> |

9.110 The documentation discussed above would indicate that Shabbir, (Dr) Shahzad Maqbool and Saima Shahzad are linked to Watertech. When the SAPS went to conduct a search of 20 Kestel Street, Kimberley they located a Dr Mahmood and Dr Bushra who were living there since December 2008. Neither Shahzad Maqbool and Saima Shahzad could be traced. Shabbir was found to be the occupant of 16 Kestel Street, Kimberley where the SAPS conducted a search.

9.111 I further determined from a Kreditinform search report that an entity known as Kim Corp 970 cc with registration number 2004/097662/23 was registered on 16/09/2004. Madyo is an active principal and was appointed on 11 April 2005. Shabbir and Shahzad Maqbool are also listed as been appointed on 11 April 2005, but have

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subsequently resigned although I cannot determine the resignation date. The status of this entity is recorded as "De-registered".

B8/1

9.112 However, I conducted an interview with Adriaan Laubscher (Laubscher) who was employed as the financial manager at Intaka Manage (Pty) Ltd from October 2005 to March 2008. He resigned in October 2007, but stayed on until March 2008, the last three months of which were in a consulting capacity.

9.113 He provided the following information to me relating specifically to the sale of the Oxygen plants by Intaka to the Northern Cape DOH and the role of Shabbir, Gaborone and Mitha:

- 1) Intaka imported oxygen generators and installed them locally at clients. These units were called Oxyntakas.
- 2) Shabbir was the CEO of the Kimberly Hospital. He came to the Intaka offices in Cape Town on about five times that he knew of. He also once met Shabbir and Gaborone, the CFO for Health in the Northern Cape, in Bloemfontein to discuss appointing an agent to collect money due to Intaka by the Department of Health.
- 3) The Department of Health did not pay Intaka on time for the monthly oxygen invoices. He spoke to Daniel Gaborone, the CFO for Health, about this numerous times. Raoul de Lange (Intaka in-house legal representative at the time) was involved in setting up an agreement with a collection company, involving Sanjay Mitha who had left the Department of Health at the time. He believed this arrangement was above board as Mitha was no longer employed by the Department of Health.
- 4) He flew to Bloemfontein with de Lange to meet with Sanjay Mitha. Dr Shabbir and Gaborone attended the meeting but Mitha was not there. Shabbir said he was mandated by Mitha to speak on his behalf. He was not comfortable with this and thought it strange that Shabbir and Gaborone who were from the Department of Health were involved in setting up a company to collect debts due by the Northern Cape DOH to Intaka. Mitha was paid up to a point, in terms of a contact with him, for his involvement in collecting money due to

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Intaka.

9.114 Laubscher provided an affidavit that includes the information detailed above. He informed me that prior to resigning from Intaka a number of transactions that resulted in payments to various entities came to his attention that made him suspicious that entities in the Intaka Group were involved in some irregular activity. As a result of his concerns, on 14 March 2007 he scanned and e-mailed copies of some of the documents supporting the suspicious payments to an external e-mail address where he later retrieved the e-mails. He attached copies of these documents to his affidavit and discussed them.

F8

9.115 I will refer to and discuss payments made to Yadhav Investments the company referred to by Laubscher that was set up to collect debts due by the Northern Cape DOH to Intaka, and payment to Chisane Investments (John Block) later in this report.

**Hamid Shabbir ABSA bank account number 940174805**

9.116 The aforementioned bank account was subpoenaed by the SAPS. This was Shabbir's account into which his salary was paid by Northern Cape DOH. It is evident upon examination of the bank statements that Shabbir had another source of income other than that received from the Department during the period he was still employed by the department. Further, it is evident based on funds in and out of this account that he holds other bank accounts that I have not had access to. Hence, I have not performed a detailed investigation into this account and other bank accounts held by Shabbir. I identified fourteen (14) x payments into the account in question amounting to R207,000 made up of rounded amounts, during the period 05/05/2006 and 28/05/2008 when he was still employed by the department (he resigned on 20 August 2008).

H2

**Mapquest**

9.117 I determined upon examination of documents seized from Intaka that Intaka corresponded with and entered into business transactions with an entity known as

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Mapquest as discussed hereunder:

- 1) On 21 November 2006 Intaka sent a letter to Deon Madyo, Executive Director, Mapquest, Rustenberg on 21 November 2006 in respect of a request for a presentation by Intaka of their services. Madyo was involved to the extent that he signed all 3 Submissions dated 15 June 2005, 7 September 2005 and 13 April 2006 as HOD, prepared by Mitha and sent to the Provincial Tender Board. It also appears to be his signature on 3 Agreements on behalf of the Northern Cape DOH, entered into with Intaka. A 4<sup>th</sup> Agreement appears to have been signed by Shabbir on behalf of Madyo as HOD. He resigned from the Department on 4 August 2006, prior to the letter in question. H3  
D1, D8,  
D16  
D12, D13,  
D14  
D20
- 2) On 30 November 2006 Intaka and Madyo of Mapquest entered into an Agency Agreement to promote, market and sell Oxyntaka's and Wataka's in the North West and Limpopo Province i.e. not the Northern Cape. The registration number of Mapquest is recorded as 2006/016908/07. I performed a Kreditinform Enquiry and determined that Mapquest Trading (Pty) Ltd with the said registration number was registered on 1 June 2006. The sole active principal is Danile Deon Madyo (Madyo) with effect from 29 June 2006. One of his current business interests in Sakhiwo Health Solutions (**Sakhiwo Health**) to be referred to below in more detail. H4  
B9
- 3) A Mapquest Tax Invoice dated 1 October 2007 in the amount of R336,140.91 refers to "Marketing and product promotion Wataka & Oxyntaka Limpopo" The bank details are recorded as: Mapquest, ABSA Bank, account no: 4065783726 H5
- 4) The said bank account was subpoenaed by the SAPS. I determined that the account is held in the name of Mapquest Trading (Pty) Ltd and was opened on 20 July 2006. The first significant deposit was recorded as a Credit Transfer "Karibuni Loan Mapquest" in the amount of R650,000 on 4 August 2006 i.e. the same day he left the Northern Cape DOH. I identified 3 payments from Intaka Investments as detailed below. Each of the payments was made by Intaka when the balance in the Mapquest account was low. H6/1

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|   | Date               | Amount ( R )      |
|---|--------------------|-------------------|
| 1 | 30/04/2007         | 50,000.00         |
| 2 | 12/10/2007         | 336,140.91        |
| 3 | 17/01/2008         | 286,128.50        |
|   | <b>Total ( R )</b> | <b>672,269.41</b> |

H6/2

H6/3

H6/4

5) The said payments were made after Madyo resigned from the Northern Cape DOH. The 2<sup>nd</sup> payment appears to relate to services provided in Limpopo as detailed in the Mapquest invoice above. Laubscher provided me with a copy of an invoice dated 12 December 2006 in the amount of R50,000 and it also relates to services in Limpopo for Oxyntaka. In sub-paragraph 2) above I referred to Sakhiwo Health. The 1<sup>st</sup> payment received by Mapquest from Sakhiwo Health was on 25 June 2008, attached hereto for ease of reference. The relevance is that I would later determine Mitha was employed by Sakhiwo Health after he left the Northern Cape DOH and hence his continued relationship with Madyo.

H5

H7

H6/5

6) A document titled "Cash Requirements" refers to the background into the Intaka cash requirements and a meeting held on 11 December 2007. On page 3 of the document the following is recorded:

H8

H8/3

*"There is also a Commission due to Mr Deon Madyo of approximately R8million (Vat included) which is still outstanding and which has not been brought into the table above as it is uncertain as to when the money will be paid. This commission is due for the provision of 8 Watakas to the Northern Cape. There is also a commission due to Watertech of R500,000".* Hence, the commission of R8 million was not due to Deon Madyo for the North West and Limpopo Provinces as envisaged in the Agency Agreement referred to a payment to in sub-paragraph 2) above. On page 6 the document is dated 19 February 2008 beneath the name MG Erasmus. I have included this even though it relates to the water purification plants as it shows the relationship Madyo had with Intaka.

H8/6

7) On 14 March 2008 Intaka sent a letter to Deon Madyo and referred to the Agency Agreement dated 30 November 2006. They further advised him that

H8/7

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the agreement had now expired and thanked him for trying to procure the necessary sales.

**13. Northern Cape and Chisane Investments: links to Intaka and  
commission payments for sales from Intaka**

9.118 I determined when investigating the supply of water purification plants by Intaka to the Northern Cape DOH that an entity known as Intaka Northern Cape was linked to Intaka, and that the former received commission payments from Intaka for the sale of water purification plants to Northern Cape Health. I further determined that the directors Intaka Northern Cape were Dr Savoi and John Block. I identified a number of documents seized by the SAPS at the premises of John Block, 10 Golden Gate Street, Cartes Glen, Kimberley relevant to Intaka Northern Cape and another entity known as Chisane Investments. I wish to refer to some of these documents:

- 1) The minutes of an inaugural meeting of Tarree Investments (Pty) Ltd held on 2 March 2005. In terms thereof Gaston Savoi, John Heinrich Cerff and John Fekile Block were appointed directors of the company. I performed a Kreditinform Enquiry and determined that Intaka Northern Cape (Pty) Ltd with registration number 2005/006456/07 was previously known as Tarree Investments. The Directors appointed effective 2 March 2005 and who are still active principals are: John Fikile Block and Gaston Savoi. John Block was allocated 36 shares (30%) and Intaka Holdings 84 shares (70%) at the aforementioned meeting. H9  
B4
- 2) On 9 March 2005 Gaston Savoi's name appears on a document titled "Ref: Oxyntaka- Wataka" addressed to John Block. The content refers to an introductory meeting between Gaston Savoi, John Block, Hamid Shabbir and Deon Madyo on 7 March (assumed to be 2005, based on the date of the document). (This document was located in the electronic data seized by the SAPS from Intaka). H10
- 3) On 15 June 2005 Intaka sent a letter to John Block, Director of Intaka Northern Cape titled "Contract for the supply of four Oxyntaka to Northern Cape". They referred to Gordonia Hospital and Upington Hospitals that were H11

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supplied with oxygen outlet points and an increase of the cost per kilogram from R9 to R16. They further included 2 annexures to the signed agreement to be signed by Deon Madyo, Deputy Director General, Department of Health, Northern Cape

- |   |                         |
|---|-------------------------|
| 4) Chisane Investments Invoice number CHI003 is dated 31 June 2005 and addressed to Eugene Hope. It refers to "Consultancy Services provided in the Northern Cape Province" in the amount of R139,707.  | H12                     |
| 5) An Agenda for a Board Meeting of Intaka Northern Cape to be held on 3 August 2005, included distribution to Gaston Savoi and John Block. Reference is made to installation of Oxyntaka's and Intaka's at Calvinia and Colesberg Hospitals.   | H13                     |
| 6) Chisane Investments Invoice number CHI008 dated 14 September 2005 and is addressed to Eugene Hope. It refers to "Consultancy Services provided in the Northern Cape Province" in the amount of R187,986. The invoice reflects John Block as Company Director.  | H14                     |
| 7) Chisane Investments Invoice number CHI010 dated 29 November 2005 is addressed to Eugene Hope. It refers to "Consultancy Services provided in the Northern Cape Province" in the amount of R62,814. The invoice reflects John Block as Company Director.  | H15                     |
| 8) An Intaka Tech reconciliation of consultancy fees for year ending 28 February 2007 reflects an amount of R400,000 was paid to Chisane Investments on 15 August 2006. A copy of the General Ledger reflects the payment was posted and due on 15 August 2006. Attached is a Chisane Investments invoice number CHI0018 dated 15 August 2006 for "Consultancy Services provided in Northern Cape Province" for Intaka Investments, in the amount of R400,000 excluding VAT, and R456,000 inclusive of VAT. The bank details provided is ABSA Bank Chisane Investments, City Centre, Kimberley, cheque account number 4060501886, branch code 500902. (These documents were seized at Intaka's premises by the SAPS). | H16/1<br>H16/2<br>H16/3 |

- |       |  |     |
|-------|--|-----|
| 9.119 | A Kreditinform Enquiry determined that Chisane Investments (Pty) Ltd with registration number 2004/004027/07 was previously known as Sage Wise 117 and was registered on 18 February 2004. The sole Active Principal appointed 8 March | B10 |
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2004 is Block.

9.120 I previously referred to my interview with Laubscher and he provided the following information specific to the Oxygen plants purchased by the Northern Cape DOH from Intaka. I will not repeat the explanation he provided to me in respect of the water purification plants and Intaka Northern Cape, John Block and Chisane Investments and the payments made by Intaka to Chisane Investments for the water purification plants.

- 1) John Block was initially Dr Savoi's contact in the Northern Cape. He knew that Block was the leader of the ANC in the Northern Cape. Block was initially involved in Health and mainly in the various municipalities. He did not specifically know what the commission payments of R139 707, R187 986 and R62 814 were for, but he did suspect that they were for playing an intermediary role with customers in local and provincial government in the Northern Cape. The invoices for the said amounts have been referred to by me in sub- paragraphs 4), 6) and 7) of paragraph 9.099 above. H12,H14,  
H15
- 2) As far as he could recall Dr Savoi informed him that the invoice from Chisane Investments for R456 000, dated 15 August 2006 was a once off payment to Block for the oxygen contract for the first 7 hospitals that signed a contract for the Oxyntaka machines. H16/3

**Chisane Investments (Pty) Ltd ABSA Bank account number 4060501886**

9.121 The aforementioned bank account was subpoenaed by the SAPS. The bank has stated that they were unable to locate the opening documents as per the FICA Centre. I have been provided with bank documents with effect from 1 January 2006 only. I identified a payment in the amount of R456,000 to Chisane Investment that is consistent with Chisane Investments invoice number CHI0018 dated 15 August 2006 as detailed hereunder. In terms of Laubscher's explanation this was a once off payment to Block for the oxygen contract for the first 7 hospitals that signed a contract for the Oxyntaka machines. The remaining 3 invoices that have been referred to above and that Laubscher was not certain what services they related to, H17/1  
H16/3

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were issued in 2005 and as stated above I do not have bank statements prior to 1 January 2006.

- 9.122 Intaka FNB account number 62106988150, subpoenaed by the SAPS reflects an Internet payment on the same day 24 August 2006 in the amount of R1,045,380; the reference is Chisane Investments. However, I located a copy of this statement in the Intaka records seized by the SAPS and it contains the following handwritten note alongside "Chisane Investments R456,000-00, Skyros Man fee & Rental R589,380", which confirms the payment to Chisane Investments in the amount of R456,000.
- H17/2  
H17/3

**14. Yadhav Investments**

- 9.123 I previously referred to my interview with Laubscher; that Mitha set up a business entity to collect debts due by Health to Intaka and that Mitha was paid up to a point, in terms of a contact with him, for his involvement in collecting money due to Intaka.
- 9.124 The following electronic records and hard copy documents seized by the SAPS are relevant to Mitha, Yadhav Investments and Intaka:
- 1) An unsigned Agency Agreement effective 14 November 2007, between Intaka and Yadhav Investments cc to "*facilitate expeditious approval, uploading and payment management process*" to Intaka by the Department of Health, Northern Cape, for the 32 medical oxygen and medical air generating units installed at 32 hospitals (I am only aware of 30). The commencement date is recorded as 14 November 2007.
  - 2) On 17 April 2008 Intaka sent a letter to Sanjay Mitha and referred to the Agency Agreement executed on 19 November 2007. He was notified that he has persistently failed to ensure that payments are received by Intaka in a timely manner, despite full commissions being paid to the Agent. They further advised him of a breach of the agreement and that Intaka reserved the right to terminate the Agreement in the event that the Agent (Yadhav) fails to ensure that payments are rendered in accordance with the terms of the Agreement. I do not know if this letter was ever sent to Mitha or not.
- H18  
H19

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- 9.125 I examined the electronic records seized by the SAPS from Intaka. I identified 9 Remittance Advice's that reflect nine (9) x payments were made to Yadhav Investments by Intaka amounting to R610,657.70 during the period 8 February 2008 to 17 December 2008. H20

**Yadhav Investments cc Standard Bank account number 040091732**

- 9.126 The aforementioned bank account was subpoenaed by the SAPS. I determined that the account was opened on 26 June 2006 and the sole signatory is Mitha. The type of business is recorded as "Distributor of steel and cement". One of his references is "Dr Shabir" whose cellular number is recorded as 083 411 9017; this is the same number provided to the bank for Shabbir as a reference in the Stratfit cc application form to open a bank account. I examined the bank statements of Yadhav Investments and identified twenty (20) x payments from Intaka to Yadhav Investments amounting to R1,544,315.52 during the period 18 December 2007 to 16 April 2010. The balance on the account as at 10 June 2010 is -R79.12. I further determined that a Cheque deposit was made by "Kim Corp 960 cc" in the amount of R10,000 into the Yadhav Investments bank account on 6 February 2008. This occurred during the period of the 1<sup>st</sup> and 2<sup>nd</sup> payment received from Intaka. The balance on the account was R10,401.80 before the cheque was deposited and R10,306.68 prior to receipt of the 2<sup>nd</sup> Intaka payment; and hence there were funds available. I previously referred to Kim Corp 960 cc and that Shabbir and Maqbool are active principals. H21/2  
H1/1  
H21/10-31  
H21/1  
H21/32  
H21/12
- 9.127 It is evident that the vast majority of payments into this account were made by Intaka, and there is no indication that this account was used for purposes of receiving income for the conducting of business as a "Distributor of steel and cement". This brings into question and places significant doubt as to exactly what Mitha was doing for Intaka that could speed up payments to Intaka by the Northern Cape DOH; that Gaborone the CFO of the Department could not have done and further Gaborone and Shabbir representing Mitha had attended a meeting with Intaka beforehand and were involved in setting up Mitha's company to collect debts.

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- 9.128 In addition to this I determined that one of the main reasons why the hospitals were refusing to pay Intaka was because they were not happy to pay a guaranteed minimum amount for oxygen per month to Intaka that far exceeded the actual usage. I previously referred to examples being at Gordonia Hospital and Abraham Esau Hospital. Hence, this was an issue that should have been resolved internally by the Department and specifically by Gaborone as CFO and not by Mitha an outsider. Gaborone was in a position of strength and should have acted in the best interests of the Department. He could have requested Intaka for example to pass on the anticipated fees to be earned by Mitha to the Department as a savings (a settlement discount), on condition he ensured Intaka were paid in a timely manner by his Department. Based on Shabbir's link to Watertech and his close relationship with Mitha in the obtaining of the fraudulent quotations for Water Purification Plants and Submissions to the Tender Board for Oxyntaka units that contained numerous misrepresentations in Intaka's favour, it is my submission that this was just another method of disguising payments that were not due to Mitha, aided by Shabbir.

**SK Mitha ABSA Bank account number 4072874140**

- 9.129 The aforementioned bank account was subpoenaed by the SAPS. Based on the bank statement number 1 provided by ABSA it would appear that the account was opened on 21 November 2008 as it reflected a nil balance at the said date and the SAPS had subpoenaed the bank statements from 1 January 2006. I previously referred to Sakhiwo Health, an entity linked to Madyo, I determined upon examination of Mitha's bank account that he received a monthly salary payment from Sakhiwo Health. I identified eighteen (18) x payments from Sakhiwo Health to Mitha amounting to R613,246.80 during the period 19 December 2008 to 26 May 2010. During the same period he was receiving payments from Intaka as discussed above.

H22/2

H22/3-19

H22/1

**SK Mitha Standard Bank account number 143891081**

- 9.130 The aforementioned bank account was subpoenaed by the SAPS commencing 1 January 2006. I have attached the bank statements received in their entirety as the

H23

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only significant deposits were those identified as detailed in the table below, during which time Mitha was employed by Northern Cape DOH (his last working day was 30 June 2007):

|   | Description             | Date       | Amount ( R ) |        |
|---|-------------------------|------------|--------------|--------|
| 1 | Cash deposit S Mitha    | 04/01/2006 | 30,000       | H23/1  |
| 2 | Cash deposit S Mitha    | 17/01/2006 | 10,000       | H23/1  |
| 3 | Cheque deposit SK Mitha | 27/06/2006 | 50,000       | H23/6  |
| 4 | Cheque deposit SK Mitha | 15/01/2007 | 20,000       | H23/14 |
|   |                         |            | 110,000      |        |

- 9.131 The said deposits appear not to be salary related. The closing balance on the account as at 30 June 2008 was nil. H23/31

**15. Comparative costs Intaka and Afrox**

- 9.132 Mitha in his Submission dated 2 July 2005 provided a "Comparative Oxygen Consumption Costs" spreadsheet (D4/3) attached hereto for ease of reference for 6 hospitals. He furnished the "monthly base O2 consumption" for 6 hospitals per National Tender provided in kilograms and concluded by calculating the monthly cost. Afrox was requested to provide the monthly oxygen consumed in kilograms in order to determine if Mitha's figures were accurate. Afrox provided a spreadsheet with information. Afrox had been provided with the "commencement date" as recorded in column 2 of the spreadsheet. The said date was obtained from the signed Schedules to the Agreement entered into between Intaka and Northern Cape DOH referred to previously in this report for the 6 hospitals subject to this analysis. Detailed below is a further explanation of the various columns contained in the spreadsheet: K1/1

- 1) Hospital- name of hospital and place where applicable;
- 2) Commencement date- already discussed above;
- 3) 3 Month Period- the 3 month period prior to the commencement date (not necessarily immediately prior to actual installation);

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- 4) Month 1 (kgs)- the 1<sup>st</sup> months usage/ consumption in kilograms;
- 5) Month 2 (kgs)- the 2<sup>nd</sup> months usage/ consumption in kilograms;
- 6) Month 3 (kgs)- the 3<sup>rd</sup> months usage/ consumption in kilograms;
- 7) Total (kgs)- the total usage/ consumption for months 1-3;
- 8) Monthly average (kgs)- the average monthly usage/consumption for months 1-3.

9.133 I wish to point out that according to Afrox, Abraham Esau hospital in Calvinia did not purchase any medical oxygen during the 3 month period in question, recorded as nil on the Afrox spreadsheet and the sales value (to be referred to on a separate spreadsheet was for cylinder hire only). K2

9.134 I further determined the "monthly oxygen consumption (in kilograms) per the contract" charged by Intaka subsequent to the commissioning of their plants, as recorded in their invoices for the 6 hospitals in question, attached hereto for ease of reference is the same as that furnished by Mitha in his "Comparative Oxygen Consumption Costs" spreadsheet and the signed Schedules to the Agreement. Detailed below is a comparison between: K3

A. Actual average monthly usage/consumption provided by Afrox for a 3 month period prior to the commissioning of the Intaka plants for the 6 hospitals; K1

B. The monthly base O<sup>2</sup> consumption provided by Mitha for Afrox in his "Comparative Oxygen Consumption Costs" spreadsheet; and D14

C. Actual subsequent monthly consumption charged by Intaka and for which they received payment. K3

|   | Name of hospital           | A (kg)       | B (kg)        | C (kg)        |
|---|----------------------------|--------------|---------------|---------------|
| 1 | Abraham Esau (Calvinia)    | 0            | 3,000         | 3,000         |
| 2 | Manne Dipico (Colesberg)   | 544          | 3,000         | 3,000         |
| 3 | Dr Van Niekerk (Springbok) | 492          | 3,500         | 3,500         |
| 4 | De Aar (Central Karoo)     | 682          | 2,000         | 2,000         |
| 5 | Gordonia (Upington)        | 1,540        | 7,583         | 7,583         |
| 6 | Kuruman                    | 298          | 850           | 850           |
|   | <b>Total</b>               | <b>3,556</b> | <b>19,933</b> | <b>19,933</b> |

9.135 Hence, based on the above Mitha misrepresented the monthly usage/consumption for

References in the margin refer to  
 appendix numbers

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the 6 hospitals in question per the National Tender to the Provincial Tender Board in the amount of 19,933 kgs. The actual average usage/ consumption per month to Afrox in terms of the National Tender for oxygen was 3,556 kgs . The Department subsequently paid Intaka for the inflated monthly usage of 19,933 kgs for the same 6 hospitals.

- 9.136 Afrox was also requested to provide the monthly cost of Oxygen to the 30 hospitals where the Intaka oxygen plants were installed, for a period of 3 months prior to the Intaka plants being installed and commissioned. They provided a spreadsheet similar to the previous one, but reflecting the costs of sales in Rands, that excludes VAT. They were provided with the "commencement date" as recorded in column 2 of the spreadsheet. The said date was obtained from the Schedules to the Agreements entered into between Intaka and Northern Cape DOH referred to previously in this report. The installation dates recorded on the relevant Installation Forms to the Agreement for 22 hospitals differed to the commencement date as the installations did not take place as envisaged but at a later date as detailed on a spreadsheet prepared. Nevertheless, this did not effect the information provided by Afrox. I will discuss the Monthly Average for all 30 hospitals recorded in column 8 later in this report.
- K4/1  
D14/D20  
D14/D20  
D20  
K4/2
- 9.137 For purposes of the 6 hospitals in question I extracted the Monthly Usage from the said table in order to determine the financial implications of Mitha's misrepresentation. Detailed below is a comparison between:
- A. Amount for the actual average monthly usage/consumption of oxygen provided by Afrox for a 3 month period prior to the commissioning of the Intaka plants for the 6 hospitals; K4
  - B. Amount for the "monthly base O<sup>2</sup> consumption" provided by Mitha for Afrox in his "Comparative Oxygen Consumption Costs" spreadsheet; and K1
  - C. Amount for subsequent monthly consumption charged by Intaka and for which they received payment. K3

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|   |                            | A                 | B                 | C                 |
|---|----------------------------|-------------------|-------------------|-------------------|
|   | Name of hospital           | Amount ( R )      | Amount ( R )      | Amount ( R )      |
| 1 | Abraham Esau (Calvinia)    | 401.00            | 85,380.00         | 48,000.00         |
| 2 | Manne Dipico (Colesberg)   | 11,072.00         | 53,880.00         | 48,000.00         |
| 3 | Dr Van Niekerk (Springbok) | 14,409.00         | 99,610.00         | 56,000.00         |
| 4 | De Aar (Central Karoo)     | 14,979.00         | 35,920.00         | 32,000.00         |
| 5 | Gordonia (Upington)        | 61,076.00         | 215,812.18        | 121,328.00        |
| 6 | Kuruman                    | 14,154.00         | 24,191.00         | 13,600.00         |
|   | <b>Total amount ( R )</b>  | <b>116,091.00</b> | <b>514,793.18</b> | <b>318,928.00</b> |

9.138 Hence, Mitha misrepresented the monthly costs for the 6 hospitals in question per the National Tender to the Provincial Tender Board in the amount of R514,793.18. The actual amount paid per month to Afrox in terms of the National Tender for oxygen and rental amounted to R116,091.00 exclusive of VAT, that amounts to R132,343.74 inclusive of VAT. The Department subsequently paid Intaka R318,928.00 per month for the same 6 hospitals. Mitha further stated that the savings would be more than 60%. The costs for the 6 hospitals actually increased by R186,584.26 per month (R318,928.00- R132,343.74) or by approximately 141%.

9.139 As previously stated Afrox provided a spreadsheet reflecting the monthly cost of Oxygen to the 30 hospitals where the Intaka oxygen plants were installed, for a period of 3 months prior to the Intaka plants being installed and commissioned. I prepared a spreadsheet in order to determine the Comparative costs between what Afrox charged Northern Cape DOH prior to the installation of the Intaka oxygen plants and what Intaka subsequently charged the Department. Detailed below is a explanation of the various columns contained in the spreadsheet:

- 1) Column A- the number of hospitals who received Intaka oxygen plants;
- 2) Column B- the name of the hospital and place where applicable;
- 3) Column C- the 3 month sales period used by Afrox for purposes of obtaining costs for comparative purposes, being dates prior to the installation of Intaka oxygen plants;
- 4) Column D- the Afrox monthly average sales in Rands over the 3 month sales period;

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- 5) Column E- the Afrox highest amount in Rands in any of the 3 months of the sales period;
- 6) Column F- the amount per month Intaka invoiced the Department subsequent to the installation of the Intaka oxygen plants;
- 7) Column G- the relevant Intaka invoice annexure number included in this report;

9.140 I determined that the Afrox Monthly Average costs was R291,844.56 (R256.004 + VAT) (Column D) over a 3 month period prior to installation of the Intaka oxygen plants, whilst the Intaka fixed costs per month was R1,276,081.92 (Column F) in the month following installation of their plants, that resulted in an increase of R984,237.36 or 337%. I determined further based on the Afrox highest amount in Rands in any of the 3 months of the sales period, that an amount of R313,036.00 (Column E) was paid to Afrox, and hence an increase of R919,220.88 or approximately 258%. K5

9.141 In addition to the above all the hospitals where Intaka oxygen plants were installed and commissioned, continued to rely on Afrox for a back up supply of oxygen. Afrox provided a spreadsheet titled: "Cost of Back Up Supply to Northern Cape Hospitals until August 2010 inclusive". The spreadsheet lists 12 of the 30 hospitals. Detailed below is an explanation of the various columns contained in the spreadsheet: K6

- 1) Hospital- the name of the hospital;
- 2) Start of cost calculation- the date Afrox commenced providing back up cylinders (at which point Intaka had installed their plants);
- 3) 10.2kg cylinder rental- the cost of renting the cylinders;
- 4) Cost of cyl gas- the cost of the oxygen used;
- 5) Bulk tank rental- the cost of renting the liquid oxygen tank (Kimberley hospital only);
- 6) Cost of bulk- the cost of the oxygen used from the liquid oxygen tank;
- 7) Total- total costs for rental of cylinders, oxygen used, rental of bulk tank and oxygen used from bulk tank.

9.142 The aforementioned spreadsheet reflects that the Northern Cape DOH incurred K6/1

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additional expenses amounting to R3,041,543 (R3,467,359 inclusive of VAT), for the back up supply of oxygen at 12 of the 30 hospitals where the Intaka oxygen plants were commissioned.

- 9.143 At the remaining 18 of the 30 hospitals Afrox was unable to distinguish between back up costs and other costs, as these costs included supply to clinics of the hospitals and mobile oxygen cylinders used for purposes other than back up. Afrox provided a spreadsheet titled: "Cost of Medical Oxygen for 18 x Northern Cape Hospitals from January 2007 to September 2010 inclusive". The spreadsheet lists 18 of the 30 hospitals and reflects that the Northern Cape DOH incurred additional expenses amounting to R2,784,349 (R3,174,157.86 inclusive of VAT), for the medical oxygen including back up supply of oxygen at 18 of the 30 hospitals where the Intaka oxygen plants were commissioned. **K6/2**
- 9.144 Ms Rose Mabelis of Afrox provided an affidavit confirming the participation of Afrox in the transversal contract number RT50 of 2005CV. She further confirmed providing the costs and quantities referred to by me and used for purposes of calculation and comparison as detailed above. **F9**

**16. Affidavit of Ndleleni Mathebula**

- 9.145 Mr Ndleleni Mathebula, Chief Director, Contract Management, National Treasury provided an affidavit that deals primarily with Treasury Regulation 16A6.5 and the participation by accounting officers or accounting authority in transversal term contracts facilitated by National Treasury, and how this relates to the matter under investigation. The following is significant: **F10**
- 9.146 1) Contract RT50 of 2005 for the supply and delivery of industrial compressed, medical compressed, industrial bulk and liquid petroleum gasses (LPG) was advertised during 2004/2005 and awarded to Afrox and Air Liquide for the period 1 July 2005 to 30 June 2008. The contract was extended for a six month period to end on 31 December 2008. I previously referred to the attachment to Mitha's Submission dated 2 July 2005 where the aforementioned Contract RT50 of 2005

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was disclosed. Mabelis of Afrox also referred to this contract in her affidavit;

- 2) The Provincial Government of the Northern Cape participated in Contract RT50 of 2005;
- 3) Once a department or institution opts to participate in a transversal term contract, such a department or institution is prohibited from soliciting bids for the same or similar products for the tenure of that specific transversal contract;
- 4) During 2006 Afrox lodged a complaint with National Treasury in which it alleged that the Northern Cape had installed pressure swing absorption (PSA) units at seven hospitals and clinic services by Afrox and sought National Treasury intervention;
- 5) He wrote formal letters to the CFO of the National Department of Health and Head of Provincial Treasury in the Northern Cape asking for their intervention in the matter;
- 6) The Office of the Accountant General also received a similar complaint and instituted formal investigations into the matter;
- 7) The investigations revealed that a company called "Oxyntaka/ Intaka Tech" was responsible for the installation of the PSA units not only in Northern Cape, but also at various hospitals and clinics in KwaZulu- Natal and at a certain hospital in the Western Cape;
- 8) He had no knowledge of the process that was followed in the appointment of Oxyntaka/ Intaka Tech to supply the PSA Units;
- 9) In the current contract, which is due to end in January 2012, contract RT50 of 2009, all provincial departments are participating. Therefore, in terms of Treasury Regulation 16A6.5 these departments are prohibited from entering into or having any other contract for the same or similar products for the tenure of this contract.

9.147 Hence, based on the above the Northern Cape DOH had no authority to enter into or have any other contract with Intaka.

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**17. Site visits**

9.148 I visited two sites in the Northern Cape DOH on 6 October 2010, where Intaka installed 2 of the oxygen plants; being Kimberley and Barkly West hospitals. K7  
Photographs were obtained and attached hereto. The following is significant:

- 1) The Oxyntaka was installed at Kimberley Hospitals (photos 1 and 2)
- 2) An identification plate of an entity known as Grotto DeFranceschi who manufactured water purification plants for Intaka, and discussed in detail in my report dealing with the investigation of the water purification plants procured by Northern Cape DOH, has been fitted to the Compressed Air Tank (photo 4) at Kimberley hospital;
- 3) The Oxyntaka oxygen outlet pipe is disconnected (photo 5) at Kimberley hospital;
- 4) The Oxygen analyser that measures the percentage of purity of the oxygen reflects it dropped below the required level of 93% to 81.92% (photo 6) at Kimberley hospital;
- 5) Afrox still provide bulk liquid oxygen as reflected in their tank (photo 7) and a bank of oxygen cylinders for back up (photo 8). The iced condition of the bulk liquid oxygen tank outlet pipe (photo 9) indicates that oxygen is being drawn from the tank at Kimberley hospital, and the temperature gauge of the car I was driving at the time, reflecting the temperature was 36°C (photo 10),
- 6) The Oxyntaka was installed at Barkly West hospital (photo 11 and 12); and
- 7) A bank of oxygen cylinders for back up (photo 13) at Barkly West hospital.

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**Summary of Findings**

9.149 Detailed below is a summary of significant findings from the investigation conducted into the procurement of Oxygen Plants by the Northern Cape DOH:

- 1) On three occasions the Northern Cape DOH received authority from the Provincial Tender Board for "*The Deviation from Tender Procedures: Acquisition of Oxygenators*" from Intaka, an entity based in the Western Cape, for clinical use at Provincial Hospitals within the Northern Cape DOH, as summarised hereunder in the minutes of the Tender Board and letters from the Tender Board to the Northern Cape DOH:
  - 13 July 2005 for Colesberg (Manne Dipico) and Calvinia (Abraham Esau) hospitals; D6/D7
  - 1 December 2005 for Gordonia, Kimberley, Kuruman, De Aar and Springbok hospitals; and D10/D11
  - 18 May 2006 at all Provincial hospitals (excluding the seven sites previously approved). D18/D19
- 2) Gaborone was present at the meeting of the Provincial Tender Board as a member representing Northern Cape DOH on 13 July 2005. D6
- 3) The approvals of the Provincial Tender Board were preceded by the compilation of three Submissions by Mitha to the Provincial Tender Board:
  - 15 June 2005 for Colesberg and Calvinia hospitals; D1
  - 7 September 2005 for Gordonia, Kimberley, Kuruman, De Aar and Springbok hospitals; and D8
  - 13 April 2006 at all other hospitals in the Province. D16
- 4) The said Submissions were signed by the following officials prior to Mitha sending same to the Provincial Tender Board:
  - 15 June 2005 for Colesberg (Manne Dipico) and Calvinia (Abraham Esau) hospitals: Gaborone (who subsequently attended the meeting of the Tender Board held on 13 July 2005 where the Approval for deviation from tender procedures was granted), Madyo and Ms Selao; D1
  - 7 September 2005 for Gordonia, Kimberley, Kuruman, De Aar and Springbok hospitals: Madyo and Ms Selao; and D8

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- 13 April 2006 at all other hospitals in the Province: Madyo and Ms Selao. D16
- 5) Mitha made a number of unsubstantiated comments and misrepresentations in the 1<sup>st</sup> Submission most noticeably that: D1
- *"Intaka Investments (Pty) are the only supplier of this technology in South Africa"*; there are other suppliers in South Africa including Insmad and Myriad Medical; E1, E2
- *"Oxyntaka systems allow health care facilities to produce their own oxygen on site- ending regular oxygen purchase"*; the hospitals where the oxygen plants were subsequently supplied and commissioned by Intaka continue to purchase oxygen from Afrox in the form of 2 different size cylinders for smaller and larger hospitals respectively and bulk liquid oxygen to Kimberley hospital;
- *"Continuous on- line oxygen"*; the oxygen plants supplied by Intaka do not come with a back up system. This was confirmed by Intaka's Mr Oosthuizen on two occasions at Intaka meetings held on 23 and 30 January 2008 respectively. E3
- 6) Mitha replied to a letter from the Provincial Tender Board dated 27 June 2005 in his letter dated 2 July 2005. He provided a *"Comparative Oxygen Consumption Costs"* schedule that concluded that the Intaka Oxyntaka system would realise a saving of more than 60%. This was a further misrepresentation as I determined all 30 hospitals continue to use Afrox in addition to the Intaka plant and the costs have increased substantially and not decreased. D4
- 7) The Submissions prepared by Mitha further failed to disclose that Intaka would be charging the Department and each hospital R16.00 per kg of oxygen based on a *"guaranteed usage"* per month and not based on actual usage. Mr Kazie the Chairman of the Provincial Tender Board referred to the minutes of 1 December 2005 and the words: *"Installation is free of charge and an amount of R16 plus VAT is payable per kg of Oxygen"*. His understanding of this statement is that the Department will pay R16 per kg of oxygen for actual monthly usage per hospital; and that there is no indication in the submission or minutes of the meeting that the Department would agree to pay for a Guaranteed Minimum amount of oxygen or based on a fixed amount of oxygen per month. K5  
D1,D8,  
D16  
F7  
D10  
D8
- 8) Mr Kazie added that the (2<sup>nd</sup>) approval was based on the Tender Board's prior approval of the two (2) x Oxyntaka units for Calvinia and Colesberg Hospitals. F7  
D6
- The second paragraph of Memorandum 6 dated 28 November 2005 reads that D9
- 

References in the margin refer to  
 appendix numbers

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- "The department informed this Office that the viability of the Oxyntaka machines are positive". The Provincial Tender Board placed a lot of reliance on the initial submission and hence approved the award to Intaka. It is my submission that the alleged "viability of the Oxyntaka machines are positive" is a further misrepresentation by Mitha to the Secretariat of the Provincial Tender Board who included this in the Memo 6 to the Tender Board. No viability study or analysis was performed that I am aware of that would justify Mitha making such a statement and the significant cost increases associated with the Oxyntaka's makes it anything but viable.* D1
- 9) After the first Submission by Mitha, the Office of the Provincial Tender Board sent a letter to Mitha where they clearly stated *"purely from a financial point of view, your recommendation is not justifiable"*. This contradicted Mitha's subsequent Submission of a 60% savings. However, this was never resolved and there is no evidence that the Provincial Tender Board was made aware of this in Potgieter's subsequent Memo to them. There is insufficient information in the said Memo to conclude that *"It is therefore obvious that the new proposed method will be very cost effective"*. Potgieter was also the primary official involved in 2 Submissions prepared by Mitha for the water purification plants during the same period 2005-2006. The content of the correspondence between Mitha and the office of the Provincial Tender Board is vague and lacked sufficient information that would enable me to conclude that the procurement of oxygen plants from Intaka was financially viable. The only conclusion I can draw is that there must therefore have been verbal communication between Mitha and Potgieter or she did not apply her mind when preparing the memo's to the Tender Board. D1  
D4A  
D4  
D5
- 10) There were 2 Agreements entered into in terms of Intaka records, for the 1<sup>st</sup> two hospitals approved at Calvinia and Colesberg, and for two of the 2<sup>nd</sup> five hospitals approved at Kimberley and Upington. I have explained in detail the content of these Agreements in this report. Both were signed by Dr Savoi on 11 April 2005, whilst Madyo signed the 1<sup>st</sup> Agreement on 12 April 2005. I am unable to determine the date Madyo signed the 2<sup>nd</sup> Agreement, although it is reasonable to assume he signed it on or about 12 April 2005. Significantly, the Provincial Tender Board only approved the 1<sup>st</sup> and 2<sup>nd</sup> Submissions on 13 July 2005 and 1 December 2005 respectively i.e. after the date of signing of the aforementioned D12, D13  
D6  
D10
- 

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- 
- Agreements. The price per kg of oxygen in the 1<sup>st</sup> Agreement was R9.00, whilst the price was increased to R16.00 per kg in the 2<sup>nd</sup> Agreement. The price increase was discussed in a letter dated 15 June 2005 from Dr Savoi to John Block, where the following is included: *"please note that the initial contracts were priced at a potential loss to Intaka"*, and hence reference to an initial contract that was not approved by the Provincial Tender Board beforehand. D13A
- 11) An email on 12 May 2005 at 12:04pm from Dr Savoi to John (Block) titled: *"Watakas- Oxyntakas"* provides further evidence of the entering into Agreements prior to approval by the Provincial Tender Board: *"As we have already informed you the Oxyntaka 020 for Upington, Oxyntaka 03 for Calvinia and Oxyntaka 03 for Colesberg are ready. We must know if we can proceed with their installation, according to the agreement signed. On the other hand, the Oxyntaka 0100 for Kimberley will be ready in the date stipulated in the agreement to then be installed"*. As stated above the Provincial Tender approved the procurement for oxygen plants for Calvinia and Colesberg hospitals on 13 July 2005 and for Kimberley hospital on 1 December 2005, however Dr Savoi is referring to an Agreement prior to these dates on 12 May 2005. J1/2
- 12) A subsequent e-mail on 19 July 2005 at 02: 29pm from Dr Savoi to John (Block) titled *"Various"*; I will only refer to the relevant section: *"Nevertheless at this stage the Northern Cape is the priority, considering that we must receive the Oxyntaka orders till Friday this week for Kimberley and Upington and in not more than 2 weeks, according to Dr Shabbir, the consumption of oxygen and medical air for the new 6 hospitals and after that we go ahead with the remaining hospitals"*, provides additional evidence and that Shabbir was also involved in awarding of the orders for Kimberley and Upington prior to Tender Board approval on 1 December 2005. J1/3
- 13) A 3<sup>rd</sup> Agreement was entered into in terms of Intaka records, signed by Dr Savoi on 22 August 2005. The date that Madyo purportedly signed the Agreement cannot be determined as the date 22 August 2005 has been deleted and there are no witness signatures to his signature. Further, the Agreement refers to annexures A to L, but only annexures A to F are attached. The said attachments relates to seven (7) x hospitals: Colesberg (Manne Dipico); Calvinia (Abraham Esau); Springbok (van Niekerk); Kimberley; De Aar (Karoo); Upington (Gordonia); D14  
D14/18  
D14/19-25
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- and Kuruman. Each of the 7 schedules contain the date 22 August 2005 however additional handwritten entries has resulted in there being uncertainty as to the date these were signed by the Northern Cape DOH. The signature on 2 of the schedules purporting to be Madyo's signature appears to be forgeries, although I am unable to state this with certainty. This Agreement appears to have been signed by Dr Savoi and Madyo on or about 22 August 2005 (based on the dates recorded on the annexures), subsequent to Tender Board approval for Calvinia and Colesberg hospitals on 12 June 2005, but prior to approval of the remaining 5 hospitals on 1 December 2005. D14/20-21
- 14) A 4<sup>th</sup> Agreement was entered into in terms of Intaka records signed by Dr Savoi and Shabbir for Madyo on behalf of the Northern Cape DOH on 28 April 2006. D20  
The Agreement relates to 23 hospitals and the attached 23 schedules are also dated and appear to be signed by Dr Savoi and Shabbir on 28 April 2006. I D20  
summarised the information contained in the 23 schedules in a spreadsheet.  
Each of the schedules provided for a "Guaranteed usage" that differed from one D21  
hospital to the next, but the price per kg of oxygen was R16 for all 23 hospitals.  
None of these "guaranteed usage" figures was provided to nor was the Provincial Tender Board made aware of this and that Northern Cape DOH would pay Intaka for a "guaranteed usage". The Agreement in question was in addition signed prior to the date of approval by the Provincial Tender Board on 18 May 2006.
- 15) A 5<sup>th</sup> Agreement was entered into in terms of the Agreement I located in the D20A  
Mazars, Moores Rowland records signed by Dr Savoi and Shabbir on 29 May 2006. The Agreement relates to the same 23 hospitals referred to in paragraph 14. above and the attached 23 schedules are also dated and appear to be signed by Dr Savoi and Shabbir on 29 May 2006. The Agreement in question was signed shortly after the date of approval by the Provincial Tender Board on 18 May 2006.
- 16) A similar Agreement to that referred to above was obtained from the Northern D20  
Cape DOH records (as opposed to Intaka records). The Department's copy D22  
reflects Dr Savoi signed the Agreement on 28 April 2006, however it also contains a handwritten date of 31 May 2006 and a signature that appears to be Shabbir's. Hence, based on this it appears Shabbir signed the Agreement after Tender Board approval on 18 May 2006. There is however a number of issues with the attached schedules that differ to the Intaka copy of the Agreement that I

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have discussed in detail in this report, that includes schedules dated 22 August 2005, witness signatures that differ and a price of R22.00 per kg on some of the schedules. It is evident that the 2 Agreements and schedules differ substantially. I am unable to determine the authority in terms of which Shabbir signed the Agreement and schedules attached thereto.

- 17) Halvey, Deputy Director, Head of Engineering and Clinical Support, Northern Cape Department of Health, confirmed no technical advice was requested from him and no specifications were compiled prior to the orders being awarded to Intaka for the oxygen plants. He was only requested by Shabbir to facilitate the implementation of the plants at Colesberg and Calvinia and thereafter at the additional 5 hospitals. He confirmed that 30 plants in total had been commissioned to date and that the Department was still purchasing oxygen cylinders for the purposes of a back up supply at these hospitals from Afrox. F1
- 18) Intaka invoiced the Department based on a "guaranteed usage" per month. This was a direct result of Mitha's misrepresentations to the Provincial Tender Board dated 2 July 2005. He concluded that the Northern Cape DOH would realise a saving of more than 60% when switching from the Afrox National Tender to the Oxyntaka unit. The average monthly payments made to Afrox for a 3 month period prior to the installation and commissioning of the Oxyntaka plants amounted to R256,004 (R291,844.56 including VAT) per month for the 30 hospitals under investigation. The amount paid to Intaka subsequent to their Oxyntaka plants being installed and commissioned at the said 30 hospitals increased to R1,276,081.92, and by R984,237.36 or by approximately 337%. C2  
D4  
D4/3  
K5
- 19) Mitha's submission dated 15 June 2005 included the following "*oxyntaka systems allow health care facilities to produce their own oxygen on site- ending regular oxygen purchase*". This was a further misrepresentation. The Department has paid AFROX an additional R3,041,543 (R3,467.359.02 including VAT) for the provision of back up from the date of commissioning of 12 of the 30 Oxyntaka plants by Intaka, during which time they also paid Intaka for the self- generating oxygen as detailed in 17) above. In addition the Department has paid Afrox a further R2,784,349 (R3,174,157.86 including VAT) for the provision of back up and other oxygen supplies to the remaining 18 hospitals, from January 2007 to September 2010 after the date of commissioning of these plants by Intaka. D1  
K6/1  
K6/2

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- 20) The collusive behaviour amongst Intaka represented by Dr Savoi, John Block, Madyo, Shabbir, Mitha, and Gaborone has resulted in the Provincial Tender Board approving Submissions that were flawed and contained a number of misrepresentations, designed to deprive the Department of the benefit of free and open market competition. Thereafter the Department entered into Agreements with Intaka that were manipulated to include a clause that the Department would be liable for "guaranteed usage" at each of the 30 hospitals; quantities that far exceeded the actual usage. The Department has entered into contracts resulting in R66,729,078.24 being paid to Intaka to 3 June 2010, as a result of the misrepresentations that had been made to the Provincial Tender Board that would not have been entered into as there was no sound business reason for doing so.
- 21) Intaka made a payment of R456,000 to John Block on 15 August 2006 against Chisane Investments invoice number CHI0018 for "Consultancy Services provided in Northern Cape Province". Laubscher alleged this he was told by Dr Savoi that this was a once off payment to Block for the oxygen contract for the first 7 hospitals that signed a contract for the Oxyntaka machines. H17  
H16  
F8
- 22) Mitha, Shabbir and Gaborone conspired to set up a company Yadav Investments. The said entity under the control of Mitha received undue benefits from Intaka in the form of commission's payable for alleged services rendered to "facilitate expeditious approval, uploading and payment management process" to Intaka by the Department of Health Northern Cape, for the 32 medical oxygen and medical air generating units installed at 32 hospitals (I am only aware of 30 hospitals). H18  
These undue payments amount to R1,544,315.52 were made during the period 18 December 2007 16 April 2010, after he had left the Northern Cape DOH. H21/1  
Mitha was employed by Sakhiwo Health, an entity linked to Madyo and received eighteen (18) x monthly salary payments from Sakhiwo Health amounting H22  
R613,246.80 during the period 19 December 2008 to 26 May 2010; during which time he was also contracted to Intaka as referred to above.
- 23) Intaka made 3 payments amounting to R672,269.41 to Madyo during the period 30/04/2007 to 17/01/2008 after he had left the Northern Cape DOH. These payments were made into the bank account of Mapquest, an entity linked to H6  
Madyo. Two of the payments allegedly relate to services rendered in the Limpopo
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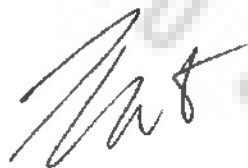
Province by Madyo according to the corresponding Mapquest invoices. The 3<sup>rd</sup> payment of R286,128.50 on 17/01/2008 is not supported by any documentation.

24) Fourteen (14) x payments were made into the personal bank account of Shabbir amounting to R207,000 made up of rounded amounts, during the period 05/05/2006 and 28/05/2008 when he was still employed by the Department.

**H2**

25) It would appear that Madyo, by entering into Agreements with Intaka to supply oxygen plants, contravened:

- The provisions of section 217 of the Constitution of the Republic of South Africa Act 108 of 1996 in that:
  - They failed to follow a procurement system which is fair, equitable, transparent, competitive and cost effective.
- Section 38(1)(a)(b)(c) of the PFMA in that they failed to:
  - Maintain effective, efficient and transparent systems of financial risk management and internal control;
  - Implement an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective;
  - Ensure that processes and procedures were in place for the effective, efficient, economical, and transparent use of the institution's resources; and
  - Exercise reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure.



**T S White**  
**Director: Forensic Services**  
**19 November 2010**

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# 11



TSW 11

In the matter between:

THE STATE

And

GASTON SAVOI  
RODRIGO SAVOI  
ALICIA MARCOS  
TRACEY WARD  
SANJAY MITHA  
LEONARD DE LANGE  
SKYROS HEALTH (PTY) LTD

ACCUSED 1  
ACCUSED 2  
ACCUSED 3  
ACCUSED 4  
ACCUSED 5  
ACCUSED 6  
ACCUSED 7

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REPORT OF TREVOR SEAN WHITE

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|                              |  |
|------------------------------|--|
| Dated                        | 4 April 2011   |
| Specialist field             | Chartered Accountant and Forensic Auditor  |
| On behalf of the Prosecution | The Director of Public Prosecutions  |
| On the instruction of        | The Department of National Treasury  |
| Subject matter               | Investigation conducted into the procurement of sixteen (16) x Dialysis Machines by the Northern Cape Department of Health from Skyros Health (Pty) Ltd. |



Trevor White  
PricewaterhouseCoopers  
PO Box 1049  
DURBAN  
4000

Telephone 031 271 2000  
Facsimile 031 202 8220  
Cell phone 082 454 6864



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Chartered Accountant and Forensic Auditor**

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**ABBREVIATIONS AND TERMINOLOGY**

The following are abbreviations and terminology that have been used in this report:

| <b><i>Abbreviated name/<br/>terminology</i></b> | <b><i>Full name and/or description</i></b>                                     |
|---|--|
| B Braun   | B Braun Medical (Pty) Ltd  |
| Barnardt  | Barend Barnardt  |
| BAS   | Basic Accounting System  |
| Bennie Burger                                   | Benjamin Burger Accounting Services t/a Accounting Kimberley                   |
| Cape Medical                                    | Cape Medical Supplies cc   |
| CFO   | Chief Financial Officer  |
| Clother-Sinclair                                | Graham Clive Clother-Sinclair  |
| Fondse  | Helene Fondse  |
| Gaborone  | Daniel Gaborone  |
| HOD   | Head of Department   |
| Intaka  | Intaka Investments (Pty) Ltd, Intaka Tech (Pty) Ltd, Intaka Holdings (Pty) Ltd |
| KZN   | Kwa-Zulu Natal   |
| KZN Health                                      | The Department of Health KwaZulu- Natal  |
| KZN LG & TA                                     | KwaZulu- Natal Department of Local Government and Traditional Affairs          |
| Leon De Lange (Dr De Lange)                     | Leonard Kruger De Lange  |
| Mafungo   | Victor Mafungo   |
| Marcos  | Alicia Marcos, personal assistant to Dr Gaston Savoi                           |
| Mitha   | Sanjay Kumar Mitha   |
| Mokotso   | Lindiwe Marcia Makotso   |
| National Treasury                               | The Department of National Treasury  |

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|                             |   |
|-----------------------------|---|
| Northern Cape DOH           | The Northern Cape Department of Health  |
| Nowell                      | Yvonne Nowell   |
| Oosthuizen                  | Nelmari Oosthuizen  |
| Peirone                     | Roydon Peirone  |
| PFMA                        | Public Finance Management Act, Act 1 of 1999  |
| PwC                         | PricewaterhouseCoopers  |
| SAPS                        | South African Police Services   |
| Rodrigo Savoi               | Rodrigo Savoi, CEO of Skyros Health   |
| Savoi (Dr Savoi)            | Dr Gaston Savoi, Intaka   |
| SCM                         | Supply Chain Management   |
| Shabbir                     | Dr Hamid Shabbir  |
| Sinbiz                      | Sinbiz cc   |
| Sister Gilbert              | Sister Margory Gilbert  |
| Skyros Health               | Skyros Health (Pty) Ltd   |
| SSEM                        | Scientific Systems Electro Medical (Pty) Ltd or SSEM Mthembu Medical (Pty) Ltd      |
| The Provincial Tender Board | The Northern Cape Provincial Tender Board   |
| Ward                        | Tracey Ward, personal assistant to Rodrigo Savoi, CEO of Skyros Health              |
| The Watertech Agreement     | A Marketing and Distribution Agreement between Intaka and Watertech 11 January 2007 |
| Watertech                   | Stratfit cc trading as Watertech  |

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**A. AUTHOR'S DETAILS**

**1.000 Name**

1.001 Trevor Sean White.

**2.000 Personal details**

2.001 I am a male with identity number 6611245014087, 44 years old. I am a director of PricewaterhouseCoopers Advisory Services (Pty) Ltd, 102 Stephen Dlamini Road, Berea, Durban with telephone number (031) 2712000.

**3.000 Experience and qualifications**

3.001 I joined Price Waterhouse in 1989, and was admitted as a director of PricewaterhouseCoopers on 1 July 1998, following the merger of Price Waterhouse and Coopers and Lybrand. I am presently the director in charge of the KwaZulu-Natal Risk Advisory Services department, which incorporates the Forensic Investigations Department of PricewaterhouseCoopers in KwaZulu-Natal.

3.002 I have conducted numerous fraud investigations for both public and private sector clients and have given evidence in the South African High Court and the Regional Court and in the Lesotho High Court. I have also presented evidence to a Commission of Enquiry, the Commission for Conciliation, Mediation and Arbitration ("CCMA") and at various disciplinary hearings. I am trained in auditing techniques and hold a Bachelor of Commerce degree and Post Graduate Diploma in Accountancy from the former University of Natal Durban. I was also admitted as a member of the South African Institute of Chartered Accountants in 1992. I am a Certified Fraud Examiner, being admitted as a full member of the Association of the Certified Fraud Examiners, a Texas based organisation, in 1998. I have been involved in a number of business valuations and performance audits. My specialist field is Forensic Auditing and as such I have extensive experience in analysing, reviewing and verifying financial information and accounting records. I have also

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chaired three investigative Commissions of Enquiry into Fraud and Corruption in Swaziland.

**B. MANDATE AND ISSUES TO BE INVESTIGATED**

**4.000 Appointment**

**4.001** The terms of our appointment are detailed in our agreement which was signed by Mr Freeman Nomvalo of the Department of National Treasury (**National Treasury**), on 2 July 2010. The said Agreement relates to the investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN Department of Local Government and Traditional Affairs (**KZN LG & TA**) and the Northern Cape Department of Health (**the Northern Cape DOH**). This report covers the investigation into the Northern Cape DOH and the purchase of Dialysis Machines only; separate reports will be or have been issued for the investigation conducted at the KZN LG & TA; the procurement of Oxyntaka Self-Generating Oxygen Plants by the Northern Cape DOH; and the purchase of Wataka Water Purification Plants by the Northern Cape DOH.

**4.002** The following represents the General Procedures performed:

1. Requested and received Basic Accounting System (**BAS**) reports for Skyros Health who received an order for the supply of Dialysis Machines and were paid by the Northern Cape DOH.
2. Obtained supporting payment vouchers.
3. In respect of the procurement procedures followed, obtained all relevant documents including quotations, applications to and approvals by the Provincial Tender Board and minutes of meetings.
4. Interviewed and obtained affidavits where necessary from officials involved in the procurement procedure and/or who were referred to in relevant correspondence.

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5. Determined whether any person involved in the procurement process or otherwise irregularly manipulated the procurement process to favour Intaka.
6. Visited and/or requested additional documentation and information from hospitals where the dialysis machines had been delivered and/or commissioned.
7. Interviewed third parties and obtained affidavits and supporting documents where necessary and applicable, including Intaka staff whose names featured on documentation and electronic records between the Northern Cape DOH and/or officials, and Intaka/ Skyros Health.
8. Accompanied the SAPS investigating officer to Cape Town and reviewed the 356 lever arch files of documents seized from Intaka.
9. Reviewed the electronic data copied by the SAPS from computers seized from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
10. Examined bank accounts subpoenaed by the SAPS.
11. Assisted the SAPS investigating officer with interviewing any official or any person related to any official from the Northern Cape DOH, or any other third party that may have been involved in any irregular conduct or who received any irregular payments.
12. Examined additional documents seized by the SAPS from Intaka.

4.003 I am not required to and did not undertake an audit in terms of the International Standards on Auditing. The scope of my work was limited to a review of the documentary evidence made available to me and enquiries undertaken to address issues identified in the execution of the investigation undertaken. I have not verified the authenticity or validity of the records and documents provided to me, unless

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otherwise stated.

4.004 This report has been prepared solely for use in the criminal matter registered with the SAPS; Kimberley CAS 02/05/2010. It may also with the prior written consent of the Director of Public Prosecutions be used in any civil or disciplinary proceedings that the Northern Cape DOH may wish to initiate. It may not be suitable for any other purpose and it should not be used, reproduced or circulated for any other purpose without my prior written consent. It should be a condition of such consent, if given, that PricewaterhouseCoopers and myself accept no responsibility to that third party and that such third party will hold PricewaterhouseCoopers and myself harmless in respect of any consequences of such disclosure. Whether or not I have given consent, PricewaterhouseCoopers and myself will not accept liability or responsibility to any other party who may gain access to this report.

4.005 I have included information relevant to the investigation and related circumstances but cannot conclude on the completeness of such information as the possibility exists that not all-relevant information and documentation was made available to me. Any documentation or information brought to my attention subsequent to the date of this report, which will affect the findings detailed herein, will require my findings to be adjusted and qualified accordingly.

4.006 This report contains hearsay evidence based on interviews conducted with individuals. I deem the inclusion of aforementioned evidence to be appropriate to sketch the full picture of the allegations raised.

**5.000 Background**

5.001 During the course of an investigation conducted by PwC in the KZN Department of Health into allegations of tender and procurement irregularities for which undue payments were allegedly made and other financial irregularities, we received information and it was alleged that Intaka Investments (Pty) Ltd (Intaka) had received an order for the supply of water purification systems to the Department of Health KZN (KZN Health) and that a corrupt payment was made to an official. We investigated

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References in the margin refer to  
appendix numbers

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this matter relying solely on the documentation in possession of the Department and interviews and information obtained from officials of the Department. At this stage we were informed that Intaka was the subject of a criminal investigation and when we attempted to interview an employee of Intaka we were advised by their Legal Advisor that we were required to address all correspondence through him. Hence, we did not have access to Intaka's records or their employees who may have been involved in the provision of the water purification systems (plants). We were subsequently informed that the SAPS had conducted a search of Intaka's premises and had seized documentation. We initially did not have access to these records.

- 5.002 Following the said investigation we issued our report dated 30 November 2009, that included the investigation and findings at that date in respect of the supply of water purification systems to the KZN Department of Health by Intaka.
- 5.003 We were thereafter on 9 February 2010 mandated to extend our forensic investigation into the awarding of a contract for Oxyntaka self-generating oxygen plants to Intaka and to assist the SAPS with the review of the documents and computers seized from Intaka. We have completed the said investigation; and issued a report in this regard dated 24 May 2010.
- 5.004 On 4 May 2010 we were appointed by National Treasury to conduct a preliminary investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN LG & TA and the Northern Cape DOH. The purpose thereof was to obtain sufficient evidence and information in order to prepare an affidavit for purposes of a restraint order by the Asset Forfeiture Unit (AFU) for Intaka and other identified parties.
- 5.005 My findings based on the investigation conducted at the Northern Cape DOH regarding the procurement of Dialysis machines from Skyros Health which was conducted in terms of our appointment dated 2 July 2010 are detailed below.

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**6.000 Issues addressed in my investigation**

6.001 This report focuses on an order awarded to Skyros Health (Pty) Ltd (**Skyros Health**), an entity linked to Intaka for Dialysis machines.

6.002 The report further summarises the Procurement Procedures followed during the awarding of the order in question, where these have been contravened and where collusion has taken place between the Northern Cape DOH Officials, suppliers and other third parties.

**C. BASIS OF INVESTIGATION**

**7.000 Execution of fieldwork and gathering of information**

7.001 Members of my staff have assisted me in the execution of fieldwork and gathering of information necessary to compile this report, however, where an opinion is expressed in this report it is my own opinion.

**8.000 Sources documents**

8.001 The information dealt with in this report was obtained from the sources listed below:

- i) Supporting procurement documentation handed to us by the Department.
- ii) Kreditinform Enquiries.
- iii) BAS reports.
- iv) Persal reports.
- v) Interviews conducted with Management and staff at the Northern Cape DOH.
- vi) Information received from third parties.
- vii) Interviews conducted with third parties.
- viii) Documents seized by the SAPS from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
- ix) Electronic records seized by the SAPS from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.



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- x) An affidavit provided by Dr Savoi of Intaka to the SAPS.
- xi) Bank records subpoenaed by the SAPS.

**D. DETAILED PROCEDURES AND FINDINGS**

- 9.000 Prior to discussing the investigation into the procurement I deem it necessary to refer to the relevant procurement policy and procedures in place at the Northern Cape DOH at the time the purchases were made. The detailed procedures and my key findings are addressed thereafter for the investigation conducted into the purchase of 16 Dialysis Machines by the Northern Cape DOH from Skyros Health.

**Code of Conduct for Supply Chain Management Practitioners: Practice Note Number 4 of 2003**

**A1**

- 9.001 The aforementioned Practice Note number 4 of 2003 was issued by National Treasury to amongst others all National and Provincial Departments, CFO's and CEO's on 5 December 2003. Further, it is applicable to all officials and other role players involved in supply chain management (SCM). The entire document is relevant however, I wish to refer to the General Principles:
- 1) The Government of South Africa commits itself to a policy of fair dealing and integrity in the conducting of it's business. The position of a SCM practitioner is, therefore, a position of trust, implying a duty to act in the public interest. Practitioners should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or supplier/ contractor for themselves, their family or their friends.
  - 2) Practitioners should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and regulations including the Public Service Regulations issued by the Department of Public Service and Administration, National Treasury Regulations and Practice Notes and directives issued by accounting officers/ authorities. They should ensure that public resources are administered responsibly.
  - 3) Practitioners should be fair and impartial in the performance of their functions.

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They should at no time afford any undue of preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority invested in them.

- 4) Practitioners should comply with the Code of Conduct for the Public Service as contained in Chapter 2 of the Public Service Regulations, 2001 especially items C4.5 to C4.12 and C5.3 to C5.4 thereof. I attach Chapter 2 of the Public Service Regulations, Code of Conduct for the Public Service hereto for ease of reference.

**A1/4-8**

**Supply Chain Management: Threshold values for the procurement of goods and services by means of petty cash, verbal/ written price quotations and competitive bids: Practice note number SCM 2 of 2005 and Treasury Practice Note 8 of 2007/2008**

- 9.002 The aforementioned Practice Note number 2 of 2005 was issued by National Treasury to amongst others all National and Provincial Departments, CFO's and CEO's on 10 May 2005. The document sets out the threshold values when procuring goods or services, hiring or letting anything, acquiring or granting any right or disposing of movable state property. I wish to refer to relevant sections in respect of the procurement of goods or services above the value of R200,000 (vat included):

**A2**

- 1) Accounting officers/ authorities should invite competitive bids for all procurement above R200,000.
- 2) Competitive bids should be advertised in at least the Government Tender Bulletin and in other appropriate media should an accounting officer/ authority deem it necessary to ensure greater exposure to potential bidders.
- 3) Should in be impractical to invite competitive bids for specific procurement e.g. in urgent or emergency cases or in cases of a sole supplier, the accounting officer/ authority may procure the required goods or services, in accordance with Treasury Regulation 16A 6.4 by other means, such as price quotations or negotiations. The reasons for deviating from inviting competitive bids should be recorded and approved by the accounting officer/ authority or his/ her delegate.

- 9.003 The aforementioned Practice note SCM 2 of 2005 was repealed with effect from 1

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December 2007 and replaced with Treasury Practice Note number 8 of 2007/2008. **A3**

The relevance is that the threshold for inviting competitive bids was increased from R200,000 to R500,000. I further attach Treasury Regulation 16A for ease of reference. **A4**

**Northern Cape Provincial Supply Chain Management (SCM) Policy**

9.004 I wish to mention further that the Northern Cape DOH implemented a Provincial **A5**

Supply Chain Management (SCM) Policy effective 5 April 2006, following Executive Council Resolution No. 48/2006 (04) that a number of Departments within the **A6**

Province of the Northern Cape, including the Department of Health, should ensure compliance by 30 June 2006 to procure independently in line with the Northern Cape SCM Policy. I wish to refer to relevant sections of this policy document (page 5 of the document has not been provided to me):

**Definitions:**

"Competitive bid" means a bid in terms of a competitive bidding process. **A5/6**

"Competitive bidding process" means a competitive bidding process referred to in paragraph C (iii) of this policy **A5/6**

**Chapter 2: 15 Competitive Bidding Process (and not paragraph C (iii)).** **A5/6**

(i) Acquisition of goods and services must be within the threshold values as determined by both National and Provincial Treasury.

(ii) The Supply Chain Management system must provide for:

- The establishment in accordance with Provincial Supply Chain Management Policy note of Specification, Evaluation and Adjudication Committees;
- Following of bid procedures in conjunction with General Conditions of contract and practice notes issued both by National and Provincial Treasury;
- The approval of bids using both Evaluation and Adjudication Committees in accordance with delegations and sign of contracts;
- Requirement for goods and services above an estimated transaction value of R200,000 per case (VAT included) may not deliberately be split into parts or items of lesser value to acquire goods and services using quotations instead

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of competitive bidding.

**Chapter 2: 9 Acquisition processes and threshold values:** (iii) A competitive **A5/13**

bidding process for acquisitions exceeding R200,000 per case (VAT Included) is applicable. Bids must at least be advertised in the Government Tender Bulletin, DFA and Die Volksblad and where applicable in the Northern Cape Regional Newspapers.

**Chapter 2: 17.1 Committees to be appointed:** The following Committees have to **A5/19**  
 be appointed in writing by the Accounting Officer for a two-year period initially and thereafter rotated:

- Specifications (standing with co-opting of members according to goods, service or commodity);
- Evaluation (standing);
- Adjudication (standing).

**Chapter 2: 23 Deviation from Acquisition processes in an urgent or emergency situation:** **A5/31**

- The Accounting Officer may deviate from the official acquisition processes established by this Policy and acquire any required goods/ services through any convenient processes, which may include direct negotiations in an extremely urgent or emergency situation. Service providers must be registered on the Provincial databases;
- Price quotations can be invited verbally, telephonically or per facsimile. The relevant parties in case of a verbal or telephonic quotation must confirm their offers in writing as soon as possible. The Accounting Officer must approve all relevant acquisitions and record reasons for audit purposes. All reasonable steps must be taken to ensure market related prices are obtained.

**Chapter 2: 28 Compliance with Ethical Standards:** All officials and other role **A5/33**  
 players in the SCM system must comply with the highest ethical standards in order to promote:

- Mutual trust and respect; and
- An environment where business can be conducted with integrity and in a fair and reasonable manner.

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**Northern Cape DOH: Members of the Supply Chain Management Committee**

- 9.005 Following the said Executive Council Resolution the HOD (being the Accounting Officer) appointed the 3 committees in accordance with SCM Policy Chapter 2: 17.1, in a letter dated 1 June 2006 to the Tender Board (Northern Cape Provincial Treasury). I wish to point out that Mr D Gaborone (**Gaborone**) and Mr S Mitha (**Mitha**) were appointed to the Bid Adjudication Committee. I will refer to these officials during the course of this report. **A7**

**Background: Affidavit of Dr Gaston Savoi**

- 9.006 I attach hereto for ease of reference an affidavit of Dr Gaston Savoi's (**Dr Savoi or Savoi**) signed and dated 21 August 2008. The affidavit deals primarily with a donation paid by Intaka in February 2007 and two commission payments made in August 2007 that relates to Intaka's business transactions with the KZN Department of Health and KZN Department of LG & TA respectively. The affidavit refers to how he and Intaka were introduced to the KZN Provincial Government, however it does not refer to the Northern Cape Province or business transacted with the Northern Cape. **B1**

**Intaka Investments (Pty) Ltd**

- 9.007 I determined when investigating an order awarded to Intaka by the KZN Department of Health for the supply of 2 water purification plants, that the registration number recorded on the footer of their quotation dated 2 October 2006 is 2003/021018/07, attached hereto for ease of reference. A Kreditinform enquiry determined that said registration number belongs to Intaka Holdings (Pty) Ltd. The said entity was previously known as Intaka Tech (Pty) Ltd and was first registered on 28/08/2003. The holding company is recorded as "Savoi Family Trust". The Active Principals are Dr G Savoi id 521226 0000 000 appointed on 28/08/2003 and Mr R Savoi id 810212 5000 000 appointed on 21/11/2007. In terms of the footer of the quotation the other 2 directors as at 2 October 2006 were Fernando Praderi and Clement Morris. In terms of the Kreditinform Report these 2 persons resigned as Directors, however the date **B2/1-3**  
**B3**

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of resignation is not reflected. It would appear that the entity with registration number 2003/021018/07 was known as Intaka Investments (Pty) Ltd at the date of the quotation and subsequent thereto changed its name to Intaka Tech (Pty) Ltd and then Intaka Holdings (Pty) Ltd.

**Skyros Health (Pty) Ltd**

- 9.008 During the course of my investigations I determined that an entity known as Skyros Health transacted with the Northern Cape DOH and that the said entity was linked to Dr Savoi and Intaka. I identified various documents amongst those seized by the SAPS from Intaka that reflected Skyros Health transacted with the Northern Cape DOH. Skyros Health tax invoice number 185 in possession of the Northern Cape DOH, to be discussed in more detail later in this report, reflects the registration number as 2004/026404/07. A Kreditinform enquiry determined that the said registration number belongs to Intaka Nutri (Pty) Ltd registered on 15 September 2004. The active directors are Dr Savoi and Rodrigo Savoi, whom I determined is the son of Dr Savoi, both appointed on 15 September 2004. Two of the non- active members are Leonard Kruger De Lange (**Leon De Lange**) id 551002 5134 084 and Graham Clive Clother-Sinclair (**Clother-Sinclair**) id 511219 5082 084, who both appointed on 1 February 2006. The aforementioned Leon De Lange and Clother-Sinclair are linked to 2 further entities as detailed below. Tracey Ward (**Ward**) was the personal assistant to Rodrigo Savoi the Executive Officer of Intaka Nutri (formerly Skyros Health). Alicia Marcos (**Marcos**) was the personal assistant to Dr Gaston Savoi the Executive Chairman of Intaka Nutri.

B4/1

B4/2-8

B4/20-21

**Sinblz cc**

- 9.009 During the course of investigating the purchase of the Dialysis Machines from Skyros Health I determined that one of three competitive quotations was alleged to have been provided by Sinbiz cc (**Sinblz**) with registration number 1989/025816/23 issued under signature of G Sinclair. A Kreditinform Enquiry determined that the said registration number belongs to Sinbiz and was registered on 9 August 1989. The current active principal is Clother-Sinclair.

B5/1

B5/2-8

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**Cape Medical Supplies cc**

- 9.010 During the course of investigating the purchase of the Dialysis Machines from Skyros Health I determined that one of three competitive quotations was alleged to have been provided by Cape Medical Supplies cc (Cape Medical) with registration number 91/22492/23 issued under signature of Dr Leon De Lange. A Kreditinform Enquiry determined that the said registration number belongs to Cape Medical and was registered on 30 August 1991. One of the current active principal is Mrs Carine De Lange, whilst the company is associated through common principals with Leon De Lange Family Trust.
- B6/1  
B6/2-9

**THE PROCUREMENT OF SIXTEEN (16) X DIALYSIS MACHINES FROM SKYROS HEALTH**

**Background**

- 9.011 During the course of examining documents seized by the SAPS from Intaka premises, I identified a number of documents of Skyros Health that appeared suspicious and required further investigation. The majority of these documents were found in file number 131 marked "Intaka Nutri Tenders: Dr Shabbir/ Watertech/ Spectrum Health". The markings of this would indicate that Dr Shabbir (Shabbir) was linked to Watertech and Spectrum Health, that transacted with or who had a business relationship with Intaka Nutri (trading as Skyros Health). Watertech had been identified by me as an entity that was linked to Shabbir and that had received irregular commission payments from Intaka relating to the procurement of water purification plants by the Northern Cape DOH. The procurement of the water purification plants and the commissions paid is the subject of a separate report I issued dated 12 October 2010. Shabbir will be discussed in more detail later in this report. I will briefly list these documents as they will be discussed in more detail later in this report.
- C1/1

- 1) A Quotation on a Skyros Health letterhead dated 10 August 2006. C1/2
- 2) A similar quotation to the one discussed above appears to have been signed by C1/3

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Tracey Ward.

- |       |  |                        |
|-------|--|------------------------|
| 3)    | A similar quotation to that discussed in 2) above is dated 18 August 2006  | C1/4                   |
| 4)    | A similar quotation to that discussed in 3) above is dated 26 October 2006.  | C1/5                   |
| 5)    | A similar quotation to that discussed in 4) above is now dated 12 October 2006 and appears to be signed by Tracey Ward.  | C1/6                   |
| 6)    | A quotation on a Cape Medical Supplies cc letterhead is dated 8 August 2006.   | C1/7                   |
| 7)    | A handwritten note " <i>please file with the other quotation sent before thanks</i> " appears to be signed " <i>Alicia</i> ". Attached are 2 quotations; the 1 <sup>st</sup> is a quotation on a Cape Medical Supplies cc letterhead similar to that in 6) above dated 11 October 2006. An electronic copy of this document was found on the Intaka "mail and back up server" seized by the SAPS.  | C1/8<br>C1/9<br>C1/10  |
| 8)    | A quotation on a Sinbiz cc letterhead is dated 10 August 2006.   | C1/11                  |
| 9)    | A quotation on Sinbiz cc letterhead similar to that in 8) above is dated 11 October 2006. This is the 2 <sup>nd</sup> quotation attached to the handwritten note previously referred to by me. An electronic copy of this document was found on the Intaka "mail and back up server" seized by the SAPS.   | C1/12<br>C1/8<br>C1/13 |
| 9.012 | I further identified the e-mails detailed below in the electronic records seized by the SAPS at the premises of Hamid Shabbir during the same period as the abovementioned correspondence seized at Intaka. The said e-mails relate to a quotation for a Siemens CT Scanner 64- slice and not the dialysis machines. I have not investigated this matter, but wish to make reference to these e-mails as it is evidence of communication between Dr Savoi and Hamid Shabbir and the business relationship between the two persons, whilst Shabbir was employed as the CEO of Kimberley Hospital Complex. | C2                     |
| 9.013 | An e-mail from Savoi to Shabbir is dated 23 August 2006 -1:25pm and titled "Revised quotation: Siemens CT Scanner 64- Slice". The body reads as follows: " <i>Dear Amigo, I'm enclosing the surprise as promised. Please bear in mind that this is the net price. We need to calculate our profits, best regards Dr Gaston Savoi</i> ". Attached is a Skyros Health letter dated 23 August 2006 addressed to Hamid Shabbir in respect of a revised quotation for the Siemens CT Scanner 64- slice.   | C2/1<br>C2/2           |

References in the margin refer to  
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- 9.014 Shabbir replied to the aforementioned e-mail on 26 August 2006 at 11:31am, the body reads as follows: "Dear Dr Savoi, thanks for the proposal but please take note of the following: the units required are two and not nine i.e. De Aar and Upington. The functionality is fine. The tender will be advertised as discussed earlier. Maintenance plan inclusion will be good option". C2/3

**Orders awarded to Skyros Health and payments made by the Northern Cape DOH**

- 9.015 I requested a list of BAS payments made by the Northern Cape DOH to Skyros Health and determined that Skyros Health had received 4 payments during the period 13/12/2006 to 19/09/2007 amounting to R4,074,784. I identified a payment in the amount of R4 million made on 29 January 2007 against order number G 217773. This amount is consistent with the Skyros Health quotation for 16 Formula Dialysis Machines in the amount of R250,000 each including VAT, amounting to R4 million dated 10 August 2006, located in Intaka's seized records and previously referred to by me. This report deals only with the said payment in the amount of R4 million. C3  
C1/2

**Background Into obtaining all relevant documentation from the Department and from the SAPS**

- 9.016 We initially received and examined documents from the SAPS in the Western Cape under "Project X Cross Ref 26/102/2 (17)" being hard copy and electronic records, after they conducted a search of Intaka's premises. We thereafter received and examined documents seized by the SAPS in the Northern Cape, being hard copy and electronic records, after they conducted searches at various business entities and suspected persons premises in the Northern Cape. We then requested all relevant procurement documentation and other official records from the Northern Cape Department of Health relating to the water purification plants, oxygen plants and dialysis machines. In addition to this we obtained documents and records from: the office of the Secretariat of the ex-Northern Cape Provincial Tender Board; bank records subpoenaed by the SAPS; and records from the office of the Registrar of Companies and Close Corporations.

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**Detailed investigation into all documents received and interviews conducted**

- 9.017 We received a number of documents from the said sources and compiled a comprehensive list, in order to obtain a clear understanding of the sequence of events in terms of the documents. I deem it necessary to briefly refer to each relevant document, the content of each where applicable and information received from various officials and third parties in relation thereto. All documents discussed hereunder were obtained from the sources listed above, unless otherwise stated.

**Kimberley Hospital Complex Renal Unit Memo dated 13 September 2004 and subsequent reports** D1

- 9.018 On 13 September 2004 Dr Van Staden of the Renal Unit, Kimberley Hospital Complex prepared a Memo titled: "Meeting with Gordonia Hospital on 23 September 2004 and De Aar Hospital on 7 October 2004". I deem it necessary to repeat the entire content of the Memo as it reflects on the background into the matter and the goals and objectives. I will later in this report conclude as to whether these goals and objectives were in fact achieved: D1/1

*"Renal Unit (Kimberley Hospital Complex) is busy assessing and implementing goals set for it as is stated in Strategic objectives for Kimberley Hospital.*

*Access and equity is not satisfactorily dealt with in the Renal Unit at present. The establishment of satellite Renal Units is crucial in this regard.*

*We have identified Upington and De Aar as the 2 priority centres to start satellite units.*

*A visit to each town is planned for the dates as set out above. Meetings and discussions will take place with the role players there.*

*We need your approval and authorisation to have the visits as official and approve transport".*

- 9.019 Attached to the said Memo are 2 reports:

- 1) Dated 5 October 2004 in respect of a visit to Gordonia hospital that took place on 23 September 2004. D1/2



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- 2) Dated 22 October 2004 in respect of a visit to De Aar hospital that took place on 7 October 2004. D1/3-4

9.020 In terms of the said reports there was no definite decision taken on whether the setting up of the Renal Units as envisaged would take place at the hospitals in question. My understanding is that these were introductory meetings and that there was further consideration required. The report for De Aar hospital makes reference to the Group that undertook the visit including "Sr Gilbert". I determined that this was reference to Sister Margory Gilbert (**Sister Gllbert**) employed as a Chief Professional Nurse in the Renal Unit at Kimberley Hospital Complex. She was interviewed and an affidavit was provided by her. She provided the following information relevant to the Memo and reports discussed above: F1

- 1) A Project Team was formed during 2004 to determine the feasibility of the proposed Satellite Renal Units and she was part of the team;
- 2) The purpose behind the Satellite Renal Units was that the Renal Unit at Kimberley Hospital is accommodating patients that require Dialysis to almost twice its capacity, which made Satellite Renal Units in the Northern Cape Region an emergency. Satellite Renal Units would improve the quality of service delivery to patients by making dialysis accessible, available, efficient and effective to all patients. The Renal Unit at Kimberley Hospital is the only State owned Dialysis Unit in the entire Northern Cape and hence the reason for the motivation to set up satellite Renal Units in the Northern Cape;
- 3) Gordonia Hospital in Upington and Sentraal Karoo Hospital in De Aar were initially identified as two (2) x of the District Hospitals which needed satellite dialysis units as a matter of urgency. She was part of the team who visited the two (2) x hospitals in 2004 to determine the feasibility thereof. She prepared a report iro these two visits. There was a general acceptance by the Departmental staff for the placing of Renal Dialysis Units at both Upington and De Aar Hospitals.

9.021 I will refer to Sister Gilbert's explanation again during the course if this report.

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**Minutes of meetings of the Renal Unit Project Team**

**D2**

- 9.022 I obtained copies of the notes/ minutes of the meetings of the Renal Unit provided by Sister Gilbert. She added that the project team experienced a number of delays to implement the project as contained in the notes. I wish to refer to the key issues as summarised hereunder:

Meeting of 15 August 2005

**D2/1**

- 9.023 The immediate requirements were identified as 2 stations for Upington and 2 stations for De Aar, whilst should they in 2-3 years time move to 4 stations, then they would have planned and implemented for Springbok, Kuruman and Calvinia hospitals. The emphasis was more around Upington hospital and the way forward.

Meeting of 18 August 2005

**D2/2-3**

- 9.024 The aim of this meeting was to finalise arrangements for the start of a satellite renal unit at De Aar. The meetings were concluded with a number of issues to be addressed on the "Way Forward" for De Aar hospital.

Meeting of 11 May 2006

**D2/4**

- 9.025 The date of this meeting indicates a period of approximately 9 months had passed from the last meeting of 18 August 2005. The aim of this meeting was "to clear out obstacles with regard to the Satellite Renal Units". Training of professional nurses had been completed at Upington and De Aar. It was the understanding of the committee (project team) that funding for the Satellite Unit was approved, whilst Dr Theys was under the impression that dialysis machines for De Aar and Upington had already been bought. Dr Theys would further liaise with Mr Sanjay Mittah as to why procurement had not taken place. It was concluded that the start up of De Aar and Upington was urgent and that it would be instituted in the existing hospitals.

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**Quotations obtained by Sister Gilbert In September and October 2006**

**D3**

9.026 Sister Gilbert provided copies of 3 quotations she obtained same from service providers, known to her. She had submitted them to the SCM Component:

- 1) Fresenius Medical Care dated 9 October 2006;
- 2) Adcock Ingram dated 18 September 2006; and
- 3) B Braun dated 9 October 2006.

**D3/1-3**

**D3/4**

**D3/5**

I am not in possession of the request sent out by her as she was unable to provide same. I further am not aware of the specifications provided to these service providers and hence have not conducted a detailed investigation and analysis of the quotations from a comparative perspective; my purpose of referring to these quotations is to illustrate quotations were requested by a member of the Project Team being a trained Professional Nurse, who had knowledge of Dialysis machines and who also provided training, from known suppliers.

**Documents seized by the SAPS from Intaka premises for the period 10 August 2006 to 26 October 2006**

9.027 I previously referred to and listed documents identified by me amongst the documents seized by the SAPS from Intaka premises. I will now discuss these documents in more detail

- 1) A Quotation on a Skyros Health letterhead dated 10 August 2006. The address of the "Head Office" and "Manufacturing" is recorded on the top left and right hand sides of the page respectively. The registration number is recorded as 2004/026404/07. The quotation is addressed to the Department of Health Northern Cape, Kimberley Hospital Complex, attention Dr Hamid Shabbir, Chief Executive Officer. The quotation is for the supply of 16 Formula Dialysis Machines in the amount of R250,000 each including VAT, amounting to R4,000,000. The document is unsigned but contains the name "Tracey Ward". The footer contains the names of the Directors, being Mr R Savoi (CEO), Dr G Savoi and Mr G Eisenberg (Legal Advisor).

**C1/2**

- 2) A similar quotation to the one discussed above appears to have been signed by

**C1/3**

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Tracey Ward. The "Head Office" address appearing on the top left hand side of the document has been circled and the words "Intaka" and "Salamax" have been written alongside. This is the same address as recorded on the Intaka quotation for the water purification systems as previously discussed. The "Manufacturing" address has been circled and deleted. The directors names at the bottom of the page have been deleted.

- |   |                       |
|---|-----------------------|
| 3) A similar quotation to that discussed in 2) above is dated 18 August 2006. It includes the changes as envisaged at sub-paragraph 2) above. The new registered office address is recorded as 27 <sup>th</sup> Floor, 1 Thibault Square, Cape Town, 8001. The document is unsigned but contains the name "Tracey Ward".  | C1/4                  |
| 4) A similar quotation to that discussed in 3) above is dated 26 October 2006. The words <i>"sorry but they need a date of the second week of October"</i> have been written on the document. The day 26 has been deleted and the day written as 12. It appears to have been signed by Tracey Ward. The aforementioned changes are clearly an attempt to hide the link between Intaka and Skyros Heath, and the interests of Gaston Savoi and Rodrigo Savoi in Skyros.  | C1/5                  |
| 5) A similar quotation to that discussed in 4) above is now dated 12 October 2006 and signed by what appears to be Tracey Ward.   | C1/6                  |
| 6) A quotation on a Cape Medical Supplies cc letterhead is dated 8 August 2006. The registration number is recorded as CK91/22492/23. It is also addressed to the Department for the attention of Dr Hamid Shabbir. The quotation is for the supply of 16 Dialysis Machines in the amount of R261,000 each including VAT, amounting to R4,176,000. It is unsigned but contains the name Dr Leon De Lange.   | C1/7                  |
| 7) A handwritten note <i>"please file with the other quotation sent before thanks"</i> appears to be signed "Alicia". Attached are 2 quotations; the 1 <sup>st</sup> is a quotation on a Cape Medical Supplies cc letterhead similar to that in 6) above dated 11 October 2006. It now purports to have been signed by Dr Leon De Lange. An electronic copy of this document was found on the Intaka "mail and back up server" seized by the SAPS. This document was saved as "Dr Shabbir – quotation – dialysis – Cape Med.doc" and the properties section of the file reflects that the author was Alicia Marcos, who is the personnel assistant to Dr Savoi. | C1/8<br>C1/9<br>C1/10 |
| 8) A quotation on a Sinbiz cc letterhead is dated 10 August 2006. The registration  | C1/11                 |

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number is recorded as 1989/025816/23. It is addressed to Dr Hamid Shabbir, Chief Executive Officer, Department of Health Northern Cape. The quotation is for the supply of 16 Dialysis Machines in the amount of R259,000 each including VAT, amounting to R4,144,000. It appears to be signed by G Sinclair. The format of the quotation is similar to that of Cape Medical Supplies cc. The address is recorded as Unit 1, Boulevard Park, Mike Pienaar Boulevard, Belville. This is the same "Manufacturing" address appearing on the Skyros Health letterhead that I previously referred to and that was deleted. Further, significantly there is no telephone or fax numbers on the quotation.

C1/3

- 9) A quotation on Sinbiz cc letterhead similar to that in 8) above is dated 11 October 2006. This is the 2<sup>nd</sup> quotation attached to the handwritten note previously referred to by me. It purports to have been signed by G Sinclair, however the signature is noticeably different to that appearing on the quotation in 8) above. An electronic copy of this document was found on the Intaka "mail and back up server" seized by the SAPS. This document was saved as "Dr Shabbir – quotation – dialysis – Sinbiz.doc" and the properties section of the file reflects that the author was Alicia Marcos.

C1/12

C1/8

C1/13

- 10) As was the case with the quotations for the water purification plants for Intaka, Westpro and Forgeweld Stainless, there is no reason for Intaka to be in possession of these quotations and it is evident that the quotations have been forged and have been used as cover quotes. There is clearly a pattern and *modus operandi* that is similar to that which occurred for the procurement of water purification plants in the KZN Department of Health and the Northern Cape Department of Health. I will again refer to these documents in this report in the date sequence in which the events occurred.

**Minutes of the meeting of the Departmental Evaluation Committee held on 8 November 2006**

D4

- 9.028 The minutes of the meeting of the Departmental Evaluation Committee held on 8 November 2006 reflect that the meeting was chaired by Mrs L Nyati Mokotso. This document was obtained from the official electronic records of Ms Yvonne Nowell of the Northern Cape DOH, SCM Component, who was a member of the Departmental

D4/1-2

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Evaluation Committee. I previously referred to the officials nominated to the various SCM Committees and in terms thereof Mokotso was a member of the Departmental Evaluation Committee. Mokotso was interviewed and she confirmed that she was the Chairperson of the Departmental Evaluation Committee. It is noticeable that this was the 1<sup>st</sup> meeting of the Departmental Evaluation Committee. I wish to point out that Mr SK Mitha was present on behalf of SCM in an advisory capacity and Mr W Groenewald was present as the Clinical Technologist, co-opted. I will refer to these minutes in more detail below:

**A7**

**Purpose:** *"evaluation of offers received for the purchase of 16 Renal Dialysis Machines, De Aar Hospital Gordonia Hospital Sanjay please add other names of hospitals".* I am unable to determine how it was determined 16 dialysis machines were required, as the meetings of the Project Team only referred to 2 stations for Upington (Gordonia) and 2 stations for De Aar hospitals, nor how Mitha as a SCM representative was in a position to provide the names for the other hospitals as he was not a member of the Project Team.

**Financial Implications:** *"Mr Mitha informs meeting that the National Department has given approval that funds from the Hospital Revitalisation could be used with the assurance that the machines will be transferred to the new hospitals presently under construction. This will result in a smooth transition as all personnel will then be fully trained to operate the dialysis machines".* I have not been provided with any documentation reflecting National Department authority had been obtained as reported by Mitha.

**Offers:** *"Five (5) offers were received from the under mentioned companies:*

*B Braun Medical;*

*Cape Medical;*

*Skyros Medical;*

*Sinbiz;*

*Belico".*

I was not provided with the offers as detailed above. The 1<sup>st</sup> entity B Braun Medical was 1 of 3 entities that provided quotations to Sister Gilbert, whilst Cape Medical,

**D3/5**

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Skyros Health and Sinbiz are the 3 entities whose quotations were located by me in Intaka seized records. C1

**Evaluation Process:** *"A comparative assessment could not be made as specifications varied from Supplier to Supplier and it would be improper to make a decision based solely on price. Furthermore no offer was received in respect of the Reverse Osmosis plant and it is critical that the procurement of the Dialysis machines not be finalized in isolation".* It is apparent that the quotations were not adequate and that the Reverse Osmosis plant was not included in these quotations.

**Conclusion:** *"Mr Werner Groenewald tasked with the drafting of uniform specifications that will meet the requirements of the Institutions concerned. He requests that Mr Vincent Halvey, Clinical Engineering, KHC be co-opt to assist him with the specifications in respect of the Osmosis plant. The specifications are to be presented to the committee before 24 November 2006. Should more information be required Companies will be requested to give a presentation".* I interpret this to mean that Groenewald assisted by Halvey would finalise the specifications and that they were to be presented to the Departmental Evaluation Committee before 24 November 2006.

**E-mail dated 9 November 2006 from Alicia Marcos to Tracey Ward** D5

9.029 I located a printed copy of an e-mail in the records seized by the SAPS from Intaka. D5/1  
 The e-mail is dated 9 November 2006 at 06:07pm from Alicia Marcos ([amarcos@skyros.co.za](mailto:amarcos@skyros.co.za)) to Tracey Ward. I determined both of these persons were employed by Intaka at the time. The e-mail is titled *"Letter to Northern Cape"* and reads as follows: *"Dear Tracey, please find below the text of a letter to be sent to Dr Shabbir of Northern Cape. The letter must be in Skyros Health letterhead paper and signed by you: 16 dialysis machines Formula 2000. Further to our proposal dated .... (the last one you did in October if I'm not wrong) we hereby reconfirm that our equipment comes with reverse osmosis filters to remove impurities and ions".*

9.030 The e-mail is dated a day following the meeting of the Departmental Evaluation

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Committee. It is my submission that it is unlikely the specifications could have been finalised by Groenewald and Halvey and there is no evidence that Skyros Health was provided with the specifications. In addition the specifications had still to be presented to the Departmental Evaluation Committee before 24 November 2006.

- 9.031 Attached to the hard copy e-mail is a Skyros Health letter dated 10 November 2006. D5/2  
 It is addressed to the Department of Health Northern Cape, for the attention of Dr Hamid Shabbir, Chief Executive Officer. It is titled "*Re: Quotation- Dialysis Machines*" and the body reads as follows: "*Further to our proposal dated 12 October 2006 we hereby reconfirm that our equipment comes with reverse osmosis filters to remove impurities and ions*". I previously referred to the Skyros Health quotation dated 12 October 2006 and that it had been changed and manipulated. C1/6

**Submission from the Office of the Deputy Director General, Kimberley Hospital Complex dated 24 November 2006** D6

- 9.032 I was provided with the Payment Advice and Order Payment Transaction form 1450 by the Northern Cape DOH, to be referred to later in this report. Attached thereto are a number of documents including a Submission from the Office of the Deputy Director General, Kimberley Hospital Complex dated 24 November 2006 addressed to the MEC ES Selao. The document is titled: "*Procurement of Dialysis Machines*". D6/1-3

- 9.033 I have been unable to determine who prepared this document. The writer sets out the purpose and comments and refers only to De Aar and Gordonia Hospital, he also makes reference to training. I have not been provided with any documentation reflecting that training was provided, to whom and by whom. Under **Financial Implication** the following is included:

*"The Department has received four quotations namely:*

|   |                                 |                                    |
|---|---------------------------------|------------------------------------|
| 1 | <i>Skyros Health</i>            | <i>R250,000 with RO filters</i>    |
| 2 | <i>Sinbiz cc</i>                | <i>R259,000</i>                    |
| 3 | <i>Cape Medical Supplies cc</i> | <i>R261,000</i>                    |
| 4 | <i>B. Braun</i>                 | <i>R200,457 without RO filters</i> |

References in the margin refer to  
 appendix numbers

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*We received specification from two companies namely Skyros Health and B Braun.*

*The above are quoted for 16 units. However, an additional six units is required. These machines will be funded by the Hospital Revitalisation grant. Below is the allocation for hospitals:*

|   |             |   |
|---|-------------|---|
| 1 | Gordonia    | 6 |
| 2 | De Aar      | 4 |
| 3 | Springbok   | 2 |
| 4 | Kuruman     | 4 |
| 5 | Postmasburg | 2 |
| 6 | Colesberg   | 1 |
| 7 | Calvinia    | 1 |
| 8 | Barkley     | 1 |
| 9 | Hartswater  | 1 |

*The total units required are 22 machines which will be funded by the above conditional grant, therefore it has no impact on the equitable share.*

9.034 The document is concluded as follows: *"It is recommended that two companies be awarded the procurement of these machines namely, Skyros Health and B. Braun. Furthermore, the former company has indicated that the renal machine is equipped with a reverse osmosis filter".*

9.035 It has been recommended by Dr V Mafungo, Acting Head of Department on 27 November 2006 and approved by Ms ES Selao, MEC for Health on the same day.

9.036 I am unable to determine how the need for dialysis machines progressed from 2 hospitals, namely Gordonia and De Aar, and planning for another 3 namely Springbok, Kuruman and Calvinia by the Project Team, to 9 hospitals. I have not been provided with any documentation reflecting the Project Team made such a decision. It is further evident that the specifications that were to be prepared by

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Groenewald with the assistance of Halvey, was not presented to the Departmental Evaluation Committee prior to 24 November 2006. It is unclear from the Submission in question whether it approved in terms of an urgent or emergency case; that permits the Accounting Officer to deviate from the official acquisition processes established by the Northern Cape DOH SCM Policy and acquire any required goods/ services through any convenient processes.

9.037 Attached to the Submission dated 24 November 2006 are the 3 quotations and 2 specifications referred to in the Submission as detailed hereunder:

- |   |                                  |
|---|----------------------------------|
| 1) Skyros Health quotation dated 12 October 2006. This is identical to the Skyros Health quotation previously referred to by me dated 12 October 2006 in Intaka's records and that it had been changed and manipulated. Two numbers have been written on the bottom of the quotation. These numbers previously appeared on the Skyros Health quotation dated 10 August 2006 and that was subsequently deleted on the Skyros Health quotation dated 18 August 2006. The name Tanya and another telephone number has been written on the top of the document. | D7/1<br>C1/6<br><br>C1/3<br>C1/4 |
| 2) Cape Medical Supplies quotation dated 8 August 2006. This is identical to the Cape Medical Supplies quotation previously referred to by me dated 8 August 2006 in Intaka's records, however it has now been signed although the signature is not similar to others I have seen of Dr Leon De Lange.  | D7/2<br>C1/7                     |
| 3) Sinbiz cc quotation dated 11 October 2006. This is identical to the Sinbiz quotation previously referred to by me dated 11 October 2006 in Intaka's records.   | D7/3<br>C1/12                    |
| 4) B Braun Medical quotation dated 9 October 2006. This is identical to the quotation previously referred to by me dated 9 October 2006 provided by Sister Gilbert.   | D7/4<br>D3/5                     |
| 5) B Braun letter dated 21 October 2006 addressed to Werner Groenewald, Kimberley Hospital. It refers to the Optional Extras for the Dialog Machines. The total has been added at the foot of the quotation being R111,720 for the "Dialog + Double Pump Standard" plus R88,736.98 for the Optional Extras amounting to R200,483.   | D7/5                             |
| 6) A "Formula" technical data from Belco and a Cape Medical Supplies technical data document. I assume these are the 2 specifications referred to in the  | D7/6-8<br>D6/2                   |

References in the margin refer to  
 appendix numbers

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Submission dated 24 November 2006, although the Submission refers to specifications obtained from Skyros Health and B Braun.

- 7) A Skyros Health letter dated 10 November 2006 addressed to the Department of Health Northern Cape for attention of Dr Hamid Shabbir, Chief Executive Officer. D7/9  
 The letter is titled "*Re: Quotation- Dialysis Machines*" and the body of the letter reads as follows: "*Further to our proposal dated 12 October 2006 we hereby reconfirm that our equipment comes with reverse osmosis filters to remove impurities and ions*". It is signed by what appears to be Tracey Ward. This letter is D5/2  
 identical to the letter previously referred to by me and prepared by Tracey Ward D5/1  
 under instruction of Alicia Marcos.

9.038 Based on the date of the documents referred to above, they were all obtained prior to the meeting of the Departmental Evaluation Committee held on 8 November 2006, apart from the letter to Dr Hamid Shabbir dated 10 November 2006. Hence the decisions taken at the said meeting were not adhered to other than Skyros confirming their equipment comes with reverse osmosis filters. I am unable to determine what the specifications are and whether the 4 entities who purportedly issued the quotations, quoted on the same specifications. Sister Gilbert has no knowledge of what transpired after she obtained the 3 quotations requested from her. She was later aware of delivery of equipment in 2007 that will be referred to later in this report. She has no knowledge of Skyros Health or Intaka.

**Order number G 217773 dated 27 November 2006**

- 9.039 On 27 November 2006 (the same day that the abovementioned Submission was recommended by the Acting HOD and approved by the MEC), order number D8  
 G 217773 was issued by the Northern Cape DOH to Skyros, for 16 Dialysis Machines @ R250,000 each, amounting to R4million.

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**Interviews with officials of the Northern Cape DOH**

9.040 Interviews were conducted with a number of officials of the Northern Cape DOH referred to thus far in various correspondences that relates to the procurement procedures followed.

**Lindiwe Marcia Mokotso**

9.041 Lindiwe Marcia Mokotso (**Mokotso**) is employed as Director, Priority Programmes, Northern Cape DOH who provided the following information:

- 1) She confirmed that she was elected as a member of the Departmental Bid Evaluation Committee when the Tender Board was phased out and the Northern Cape DOH procured services independently effective 1 June 2006 (not the Departmental Adjudication Committee);
- 2) She has no knowledge of Skyros Health or Intaka;
- 3) She confirmed attendance at the Departmental Evaluation Committee held on 8 November 2008, being one of the 1<sup>st</sup> meeting of the said committee. Sanjay Mitha also attended the meeting; although he was a member of the Departmental Adjudication Committee, he was Director: SCM and attended the meeting in an advisory capacity;
- 4) She was not aware who requested the quotations presented to the committee, but the committee was unable to do a comparative assessment as the specifications on the quotations differed;
- 5) The committee requested Werner Groenewald, Clinical Technologist, to draft the uniform specifications to be provided to suppliers for purposes of an official tender document;
- 6) She later became aware that the Dialysis Machines had been purchased. This was not done through the formal process and the Departmental Evaluation Committee did not discuss it further as it was not approved by the committee;
- 7) She was not aware of the procurement procedure that was followed in the procurement of the Dialysis Machines.

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- 9.042 Mokotso provided an affidavit detailing her knowledge of procurement of the Dialysis Machines as a member of the Departmental Evaluation Committee. F2

**Werner Groenewald**

- 9.043 Werner Groenewald (Groenewald) employed as Control Clinical Technologist, ICU, Kimberley Hospital provided the following information contained in an affidavit provided by him. I deem it necessary to repeat almost his entire affidavit as the information is relevant and is not contained in any other documentation that serves as confirmation thereof: F3

- 1) He confirmed that the Department had identified a need for renal dialysis machines at various hospitals during 2006 and called for quotations to determine the cost and to procure for these services. As far as he can recall he was not personally involved with the calling of the quotations and does not know who was responsible for obtaining quotations. He was invited to attend a Departmental Evaluation Committee meeting during which time the purchase of sixteen (16) x dialysis machines was discussed, however he cannot recall the date when the meeting was held. He attended the meeting as he was co-opted to provide information on the clinical- and technical aspects of the dialysis equipment;
- 2) He further confirmed that the said committee could not make a comparative assessment between the quotations obtained because the specifications of the units quoted on differed from each other; he was then tasked to draft uniform specifications for the suppliers to Bid on and that would meet the requirements of the Department. He was also requested to give feedback to the committee on or before their next meeting;
- 3) He drafted a specification document for the types of Haemodialysis machines required by the Department a copy of which is attached for ease of reference. The name and contact details of the suppliers referred to on the first page of the document was obtained from the SCM component. He added the names of possible suppliers well known in the field. The names of the suppliers: Cape Medical; Belco, Skyros and Sinbiz were obtained from the Departmental Evaluation Committee meeting. He did not have the contact details of these D9

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entities and requested Yvonne Nowell from provincial SCM to add the details before sending out the finalized tender document responsible for the finalisation and the distribution of the official tender document to the various service providers;

- 4) According to his knowledge the official Tender document was never completed and or circulated to any of the service providers;
- 5) He was later informed by Yvonne Nowell of SCM that the Specification Document prepared by him was no longer required because the machines were already procured;
- 6) He could not recall the letter from Helene Fondse of B Braun addressed to him dated 21 October 2006 iro prices for their Dialog Machines and optional extras to the said machines. He added that Helene Fondse is a representative of B Braun known to him. He assumed that Helene Fondse provided the different options of their dialysis equipment to the Department for information purposes and addressed it to him, because he works in the ICU Department and is responsible for the technical aspects of the dialysis equipment. He cannot recall attending another meeting during which time they discussed the procurement of the Dialysis Machines.
- 7) He was later involved in facilitating the installation of sixteen (16) x Dialysis Machines supplied to the Department by Skyros Health. The said Dialysis Machines delivered to the Department were Belco products supplied by Scientific Systems Electro Medical (SSEM). To his knowledge SSEM are the sole suppliers (agents) for the Belco dialysis machines in RSA. They are not agents for Skyros. It was further his understanding that Skyros purchased the dialysis machines (without Reverse Osmosis units) from SSEM and resold it to the Department. Further, SSEM (not Skyros) service and maintain the Belco dialysis machines;
- 8) He dealt with Dr De Lange of Skyros Health in 2007 iro the installation of the Dialysis Machines i.e. De Lange was not from Cape Medical Supplies. Groenewald provided a number of e-mails and correspondence reflecting same, that I do not deem necessary repeating, however I will refer to a Memo he sent to De Lange on 6 September 2007 as it reflects on the quality of the Dialysis Machines provided by Skyros and Dr Shabbir's involvement:

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- He was referred to the manufacturers of the RO filters by De Lange and spoke to Tony, a representative of H2O, who confirmed that the units supplied to the Department (by Skyros) are of "non-medical grade". The specifications did not provide for water softening and did not comply with other aspects that were required by the Department for the dialysis. The capacity of the storage tanks was also inadequate. He reported these aspects to De Lange in a memorandum dated 6 September 2007 and copied it to Dr Shabbir. The Reverse Osmosis units supplied by Skyros Health were inadequate and hence his request to De Lange to address these issues in order to have the Dialysis Machines operational as soon as possible; D10
  - De Lange replied to his request on 14 September 2007 stating amongst others that *"the RO filters supplied to you was free of charge. The filters you are specifying will be for the Hospitals account as it is costly"*. He forwarded the reply from De Lange to Dr Shabbir on the same day at 03:40 for his attention. Dr Shabbir dealt with the matter thereafter and instructed Groenewald to cease his inquiry regarding the Reverse Osmosis units supplied to the department. He is not sure what was decided or happened after this process. Mrs. Maretha le Roux (Provincial non-communicable) contacted him several times after this process to find out what happened regarding the "water supply" of the dialysis machines. He informed her that he had no knowledge as he was instructed by Dr Shabbir not to continue with the matter. To his knowledge the dialysis machines from Skyros were not installed at the different sites as directed by the department. The e-mail from De Lange is also copied to "Dr Gaston Savoi" D11
- 9) B Braun supplied six (6) Dialysis Machines to the Department during the same period in 2007. The Dialog Dialysis Machines supplied by B Braun were supplied with mobile Reverse Osmosis units.

**Yvonne Nowell**

- 9.044 Yvonne Nowell (Nowell) employed as Assistant Director: Acquisition Department within the Supply Chain Management was interviewed and provided the following information:

Handwritten signature and initials, including a large 'M' and a checkmark-like mark.



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- 1) During the period 2005/2006 she reported to Sanjay Mitha who was Director: Hospital Revitalisation and Infrastructure Development and Director: SCM;
- 2) She confirmed her attendance of the Departmental Evaluation Committee meeting of 8 November 2006;
- 3) The Department received five offers from different suppliers as listed in the minutes. She never called for these quotations and does not know who sourced them; her duties within SCM included obtaining quotes from service providers, placing orders and authorised the placement of orders within her delegated authority. Mitha attended the said meeting in an advisory capacity and she recalled that he brought some of the quotations to the meeting. She recalled further that he informed the meeting that the National Department of Health had given approval that "funds from the Hospital Revitalization could be used" for the purchase of the dialysis machines as stated in the minutes. D4
- 4) She further confirmed that the committee was unable to perform a comparative assessment; that Groenewald was tasked with drawing up the specifications for purposes of an official tender document and that he was required to report back to the committee before 24 November 2006;
- 5) She was working in the James Exum Building, Kimberley Hospital Complex. Mitha, situated in the Admin Building, Kimberley Hospital Complex, phoned her after the initial meeting of 8 November 2006 and said she must bring an order book down to his office because the MEC, Ms Selao wants the Dialysis Machines ordered immediately as patients are in dire need of dialysis throughout the region. Mitha was well aware that Groenewald was preparing the specifications and that SCM were busy compiling an official Tender Document. Mitha showed her the submission addressed to the MEC titled "Procurement of Dialysis Machines" dated 24 November 2006 that had been approved by Ms ES Selao. The said submission reflected that quotes were received for 16 units and that "an additional six (6) x units were required". The submission reflected that it was recommended that *"two companies be awarded the procurement of these machines namely, Skyros Health and B Braun"*. D6
- 6) She then compiled the order number G 217773 in Mitha's office issued to Skyros Health for 16 x dialysis machines in the amount of R4,000,000 as instructed by D8

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Mitha which was supported by the approved submission. The Dialysis Machines were delivered to the Department thereafter. The order issued to Skyros Health was not discussed by the Departmental Evaluation Committee thereafter.

- 7) She also compiled order number G 217775 issued to B Braun for 6 x dialysis machines in the amount of R1,202,742 (this copy was provided to me by B Braun). D12

- 8) Ms Helene Fondse from B Braun phoned her after she received the order and offered additional machines. She was surprised when Helene Fondse said she could offer more machines as the submission listed that they were priced in excess of R200,000 per machine. Helen Fondse was now offering more units for the price specified in the order. The handwriting at the bottom of the quotation supplied by B Braun (the handwritten calculation of the price) is that of Mitha. She based the order amount on the said amount written down by Mitha on the quotation of B Braun (the correct amount is R200,457). The Department only required 6 Dialysis Machines from B Braun and she requested Helene Fondse to rather add the additional components (optional extras) relating to the equipment that was specified in her quotation. She based this on the fact that she could not change the submission amount of 6 machines to include additional Dialysis Machines. Nowell's explanation will be further discussed when I refer to the interview with Helene Fondse. D7/5

- 9.045 Nowell provided an affidavit detailing her knowledge of procurement of the Dialysis Machines as a member of the Departmental Evaluation Committee and SCM. F4

**Victor Mafungo**

- 9.046 Victor Mafungo (Mafungo) employed as Chief Director, Forensic Medical Services, Kimberley Hospital Complex was interviewed. He confirmed that he was Acting HOD at the time he signed the Submission dated 24 November 2006. He was unable to provide any additional information not already included in the Submission and already referred to by other officials. Detailed below is a summary of the information provided by Mafungo:

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- 1) He recalled the Department experienced a shortage of renal dialysis machines and there was a need to procure same for use at various hospitals during late 2006;
- 2) He does not recall who prepared the Submission or who addressed it to him for recommendation;
- 3) He was not involved in the procurement process nor did he serve on any of the SCM Committees;
- 4) The only entity he knew that was listed on the Submission was B Braun, an entity known to supply the equipment in question; hence he did not know Skyros Health, Sinbiz or Cape Medical Supplies;
- 5) He was not involved in sourcing any of the quotations.

9.047 Mafungo provided an affidavit detailing his knowledge of procurement of the Dialysis Machines as Acting HOD. F5

**Order Payment Transaction number G 217773**

9.048 I previously referred to the Submission dated 24 November 2006 and the 4 quotations attached to the order payment transaction form in the Northern Cape DOH official records. Also attached are the following documents:

- 1) Order payment transaction number G 217773 reflecting a payment in the amount of R4,000,000 was made by the Northern Cape DOH to Skyros on 24 January 2007. The number \*185\* and 20061201 has been written on the form. This is reference to the Skyros invoice number and invoice date to be discussed below. D13/1
- 2) Department of Health Creditor Payment Advice reflecting the payment and that the expenditure was authorised by DM Gaborone on 24 January 2007. A 2 page Department of Health Allocations form. I do not deem it necessary to discuss this document in detail as it relates to the information provided on the Skyros delivery notes to be discussed below. D13/2  
D13/3-4
- 3) Skyros Health Tax Invoice number 185 dated 1 December 2006 in respect of 16 Formula Dialysis machines amounting to R4,000,000. The bottom left hand corner of the tax invoice contains a box reflecting the distribution of the 16 D13/5

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dialysis machines as detailed below:

|              | # Units   | Hospital    |
|--------------|-----------|-------------|
| 1            | 6         | De Aar      |
| 2            | 4         | Kuruman     |
| 3            | 2         | Springbok   |
| 4            | 1         | Barkly West |
| 5            | 1         | Colesberg   |
| 6            | 1         | Calvinia    |
| 7            | 1         | Hartswater  |
| <b>Total</b> | <b>16</b> |             |

4) Seven (7) x Skyros Health delivery notes as detailed below:

|              | Delivery note # | Delivery note date | Hospital    | Date of receipt by hospital | # Units   |        |
|--------------|-----------------|--------------------|-------------|-----------------------------|-----------|--------|
| 1            | 1               | 01/12/2006         | De Aar      | 08/12/2006                  | 6         | D13/6  |
| 2            | 2               | 01/12/2006         | Kuruman     | 06/12/2006                  | 4         | D13/7  |
| 3            | 3               | 01/12/2006         | Springbok   | 07/12/2006                  | 2         | D13/8  |
| 4            | 4               | 01/12/2006         | Barkly West | 06/12/2006                  | 1         | D13/9  |
| 5            | 5               | 01/12/2006         | Colesberg   | 08/12/2006                  | 1         | D13/10 |
| 6            | 6               | 01/12/2006         | Calvinia    | unknown                     | 1         | D13/11 |
| 7            | 7               | 01/12/2006         | Hartswater  | 06/12/2006                  | 1         | D13/12 |
| <b>Total</b> |                 |                    |             |                             | <b>16</b> |        |

The allocation and delivery to hospitals above is consistent with the Submission dated 24 November 2006; except 4 units were allocated to De Aar in the Submission and not 6; and the distribution of the remaining 6 plants (8 according to the Submission) to Gordonia and Postmasburg are outstanding (I assumed these were to be supplied by B Braun).

D6

D12

5) A Skyros Health letter dated 5 December 2006 addressed to Nowell from Adriaan Laubscher, Financial Manager. He has referred to various attached documents,

D13/13

D13/14-17

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References in the margin refer to  
 appendix numbers

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however not all were handed to me. Of significance is that the full Head Office address, Manufacturing address and Directors has been included in the letterhead that had been previously deleted when Skyros Health manipulated their quotation.

C1/2-6

**Interview with Roydon Peirone of SSEM Mthembu Medical (Pty) Ltd**

9.049 During the course of investigating the 16 Dialysis Machines supplied by Skyros Health I determined that they were delivered to the various hospitals by an entity known as SSEM Mthembu Medical (Pty) Ltd (**SSEM Mthembu**). I further determined that SSEM Mthembu sold the machines to Cape Medical Supplies and not Skyros Health, this appeared suspicious to me and required further investigation. Roydon Peirone (**Peirone**), Regional Director of SSEM Mthembu was interviewed and provided the following information and supporting documents:

1) At the beginning of August 2006 he was contacted by Dr Leonard De Lange from Cape Medical Supplies regarding a quotation for 16 Formula Dialysis Machines. He prepared the quotation and sent it to Cape Medical Supplies for the attention of Dr Leonard De Lange on 4 August 2006. The price quoted was R123,337.50 less a 20% Discount and including VAT, that amounted to R112,483.80 each. I previously referred to the Cape Medical Supplies quotation purportedly issued by Dr Leon De Lange dated 8 August 2006 (4 days after SSEM Mthembu's quotation) attached to the Departments payments vouchers; the price quoted is R261,000 each inclusive of VAT. This is a mark up of approximately 130%. The mark up excluding the 20% discount amounts to approximately 85%.

D14/1

D7/2

2) During September 2006 he was informed by Dr De Lange that they had accepted the quotation and on 26 October 2006 SSEM Mthembu invoiced Cape Medical Supplies. I wish to briefly refer to the invoices:

D14/2-3

- It has been charged to Cape Medical Supplies PO Box 15190, Panorama. This is the same postal address as that appearing on a Skyros Health quotation Manufacturing address, prior to it being deleted;
- It is also the same postal address as that appearing on the Cape Medical Supplies quotations;

C1/2

C1/7,9,10  
& D7/2

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- The machines were to be delivered to Cape Medical Supplies, 17 Boulevard Park, Bellville. None of the Cape Medical Supplies quotations contained a street address. The street address of Skyros Health appearing on a Skyros Health quotation Manufacturing address, prior to it being deleted is Unit 1, 10 Boulevard Park, Bellville;
- The invoiced amounts are detailed in the tables below:

C1/2

| # units           | 12           | 4          |
|-------------------|--------------|------------|
| Price per unit    | 123,337.50   | 123,337.50 |
| Sub- total (R)    | 1,480,000.00 | 493,350.00 |
| Less 20% discount | 296,010.00   | 98,670.00  |
| Sub- total (R)    | 1,184,040.00 | 394,680.00 |
| 14% VAT           | 165,765.60   | 55,255.20  |
| Total (R)         | 1,349,805.60 | 449,935.20 |

The total amount including the discount and VAT is thus R1,799,740.80. Cape Medical Supplies quoted R4,176,000 to the Northern Cape DOH. Skyros Health quoted R4,000,000 to the Northern Cape DOH, received an order for R4,000,000 and was paid R4,000,000 by the Northern Cape DOH.

D7/2

D7/1

D13/1

- The invoices appear to have been signed by Dr Leon De Lange on 10 November 2006.
- 3) On 1 December 2006 SSEM Mthembu was informed by Dr De Lange that they must deliver the dialysis machines to the Northern Cape DOH. Dr De Lange also provided SSEM Mthembu with delivery notes on Skyros Health letterheads that included the names of hospitals and number of machines to be delivered to each hospital. The delivery notes provided by Peirone are identical to those in the Northern Cape DOH records previously discussed attached hereto for ease of reference. Peirone added that he was not familiar with Skyros Health and had not dealt with them prior to this.
  - 4) SSEM Mthembu delivered the machines to the hospitals per the delivery notes and provided training. It was subsequently determined after following up the training issue with Mr Jannie Coetzee Regional Manager of SSEM Mthembu Bloemfontein office, that training was provided to Kimberley Hospital renal and

D14/4-10

D14/11

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engineering department only. The Formula Dialysis Machines according to Peirone comes standard with a multiple water inlet and a forceclean dialysate filter; Reverse Osmosis Filters are supplied separately depending if they are being supplied to an acute or chronic unit at an additional cost.

- 9.050 Peirone provided an affidavit detailing his knowledge of supply of the Dialysis Machines by SSEM Mthembu to Cape Medical Supplies and delivered under Skyros Health delivery notes. He subsequent to his affidavit confirmed receipt of payment by SSEM Mthembu from Cape Medical Supplies on 5 February 2007 (after they had been invoiced on 26 October 2006 as previously discussed) F6  
F6/18

**Interview with Helene Fondse of B Braun**

- 9.051 Helene Fondse (Fondse) provided a copy of an order awarded to B Braun previously referred to by Yvonne Nowell. Fondse employed as the Product Manager: Renal Division B Braun Medical (Pty) Ltd (B Braun) was interviewed and provided the following information and supporting documents: D12
- 1) She prepared a quotation and addressed it to Sister Gilbert employed at Kimberley Hospital dated 9 October 2006. The quotation included the supply of a "Dialog A+ (Plus) Incl BIC (Single Pump)" dialysis machine in the amount of R94,506 (incl VAT) per unit. The content is identical to the copy provided by Sister Gilbert and that attached to the payment vouchers and Submission dated 24 November 2006, with the only exception being it is signed by the Customer Services Co Coordinator Jitsendra Naran whereas the other copies are not. D15/1  
D3/5  
D7/4
  - 2) She was later contacted by Groenewald employed in the Intensive Care Unit at Kimberley Hospital who requested her to provide him with a list of optional equipment available for their dialysis machines. She then prepared a letter and addressed it to Groenewald dated 21 October 2006 wherein she listed the "Optional Extra's" that was available for the dialysis machines that she had quoted on. The quotation was for the supply of item code number 710500C, a "Dialog Plus Single Pump" machine in the amount of R94,506 (incl VAT) and for item code number 7105013, a "Dialog + Double Pump Standard" machine in the D15/2

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amount of R111,720 (incl VAT). The Dialog + is a Haemodialysis machine manufactured by B Braun. The content of the letter is the same as the letter attached to the payment vouchers and Submission dated 24 November 2006.

D7/5

Hence, the price of the dialysis machine to be provided by B Braun was R111,720 including VAT each, whilst the price of the dialysis machines received from Skyros Health was R250,000 including VAT each.

- 3) Order number G217775 for the supply of six (6) x Dialysis Machines per unit was issued to B Braun in the amount of R200,457 per unit. The order form was faxed through to Fondse on 28 November 2006 by Mrs Yvonne Nowell of the Department. She noticed that the amount per unit was very high and contacted Nowell to discuss the order that was issued. She explained to Nowell that the order that was issued to B Braun specified only one item code (7105013) for the supply of six (6) x "Dialysis Machines" and that the order amount (R200,457) was much higher than the price they quoted on (R111,720). Fondse then offered to supply nine (9) x machines with additional equipment at the same price. Nowell then advised Fondse to rather provide six (6) x machines together with Reverse Osmosis filters because she could not change the number of machines. She made short handwritten notes of the telephone conversation that day and kept her notes on file. An extract of the notes reads as follows: *"it will make B Braun far cheaper than the one they have accepted- R250,000 each"*. Fondse's understanding of this comment by Nowell was that the Department had issued an order to another supplier for the supply of dialysis machines in the amount of R250,000 per unit, which was more expensive than B Braun (R111,720). Fondse determined later that the Department had issued an order to Skyros Health for the supply of sixteen (16) x dialysis machines. Skyros Health was unknown to Fondse at the time and is unknown in their industry.

D15/3

D15/4

- 4) The above would indicate that Nowell was not acting in the best interests of the Department. Her explanation that she could not change the number of machines from 6 to 9 is absurd. She could have either accepted the 9 machines offered by B Braun or alternatively requested a lower price for the 6 machines. This would merely require that she take the matter up with her superiors and logic tells me, if there was nothing irregular taking place, that the existing order would be cancelled and a new order issued to either included 9 machines at the same price

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or 6 machines at a lesser price. Further the words recorded by Fondse: "it will make B Braun far cheaper than the one they have accepted- R250,000 each" is evidence of a smoke screen to cover up the highly inflated price of Skyros Health. Nowell denied any wrongdoing when she was interviewed.

- 5) She agreed to supply the Department with six (6) x "Dialog A + (Plus) Incl BIC (Single Pump)" dialysis machines with additional options (extra equipment) available to the dialysis machines, although these items were not listed on the order. They also provided two (2) x Reverse Osmosis machines at no charge to the Department. One Reverse Osmosis system was sufficient to supply enough water for two (2) x dialysis machines and would be sufficient until the Department have installed a Reverse Osmosis plant. The value of a Reverse Osmosis system was approximately R16,000 during this period. B Braun issued Invoice number INV 0280625 dated 16 March 2007 to the Department for the supply of six (6) x Dialog dialysis machines and included the optional extras, all for the order amount of R1,202,273.98 (incl. VAT).
- 6) B Braun supplied the six (6) x dialysis machines together with the optional extras and the two (2) x Reverse Osmosis machines and delivered it to Kimberley Hospital Complex early 2007. They were later requested to transfer the equipment to Gordonia Hospital in Upington which they did at no additional costs to the Department. They were again asked to transport the equipment back to Kimberley Hospital during early 2009 at which time the units were still unopened and in the original packaging. They transported the equipment back to Kimberley Hospital at no extra cost to the Department. Hence, no Dialysis Machines were delivered to Postmasburg as per the Submission dated 24 October 2006 and those delivered to Gordonia hospital were returned to Kimberley Hospital.
- 7) She confirmed, which is consistent with my findings, that if B Braun had supplied only one item as listed on Order number G-217775 they would have supplied it to the Department in the amount of R111,720 (incl VAT) per unit, the same amount that they had quoted on. The said price is within a similar price range to that quoted by SSEM Mthembu to Skyros Health being R112,483.80 and substantially less than the Skyros Health selling price to Northern Cape DOH being R250,000.

D15/5

9.052 Fondse provided an affidavit detailing her knowledge of the supply of the Dialysis

F7

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Machines by B Braun and her discussion with Nowell.

9.053 I wish to refer back to the information provided by Sister Gilbert in so far as it relates to the need for the Dialysis Machines and that they were not used and therefore the procurement thereof cannot have been deemed to be an urgent or emergency situation: F1

- 1) Nine (9) x Belco Hemodialysis machines were delivered to Kimberley Hospital during 2007 by SSEM Mthembu during which time these machines were placed into operation. It is thus evident that the said machines were 1<sup>st</sup> delivered to the hospitals per the Skyros Health delivery notes and then were delivered to Kimberley. Sister Gilbert was unfamiliar with the Belco product delivered by SSEM Mthembu at the time and SSEM Mthembu was also not known to her. SSEM Mthembu gave training to her and her staff on the equipment at Kimberley Hospital. It was further reported to her that Belco Dialysis Machines were also delivered to other hospitals in the Northern Cape during this period.
- 2) B Braun delivered six (6) Dialysis Machines to Gordonia Hospital in Upington.
- 3) Despite their efforts to set up Satellite Renal Units at various Hospitals it never succeeded. Patient numbers increased in 2009 which resulted in frequent breakdowns of the Belco Machines in Kimberley Hospital (supplied by Skyros Health). As a result thereof they required more Dialysis Machines at Kimberley Hospital.
- 4) A Management decision was then made to return all the Dialysis Machines to the Renal Unit at Kimberley Hospital in order to place these machines into operation. The six (6) x Formula Dialysis Machines supplied by B Braun were then transferred from Gordonia Hospital to Kimberley Hospital. These machines were unopened and in their original packaging when they arrived at the Hospital.
- 5) The further seven (7) x Belco Dialysis Machines supplied by SSEM Mthembu (to various hospitals) were also transferred to Kimberley Hospital. These Dialysis Machines were also unopened and in their original packaging when they arrived at the hospital.
- 6) The said seven (7) x Belco Dialysis Machines were opened and programmed by the technician from SSEM Mthembu on 1 September 2010. These Dialysis

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Machines are now all operational and in use by the Renal Unit at Kimberley Hospital.

- 9.054 Based on the above explanation none of the 16 x Dialysis Machines delivered by SSEM Mthembu on behalf of Skyros Health was used at the hospitals where they were delivered and were later transferred to Kimberley Hospital where they were put into use. Similarly, none of the 6 Dialysis Machines delivered by B Braun to Kimberley Hospital, then transported to Gordonia Hospital, then back to Kimberley Hospital, were used at Gordonia Hospital.

**Interview with Heidi Williams personal assistant to Dr Hamid Shabbir**

- 9.055 Heidi Williams is the personal assistant of Mr G Moncho the current CEO of Kimberley Hospital. At the time the Dialysis Machines were procured she was the personal assistant of Dr Hamid Shabbir who was the CEO of Kimberley Hospital from 2005 to the date he resigned in 2008. She was responsible for general administrative duties in the office of Shabbir. She has no knowledge of any quotations specifically those addressed to Shabbir personally:

- |   |      |
|---|------|
| 1) Skyros Health quotation dated 12 October 2006;       | D7/1 |
| 2) Cape Medical Supplies quotation dated 8 August 2006; | D7/2 |
| 3) Sinbiz quotation dated 11 October 2006; and          | D7/3 |
| 4) Skyros Health letter dated 10 November 2006.         | D7/9 |

She is further unaware of how the Department procured the Dialysis Machines as Shabbir was not involved in procurement and was not a member of any SCM Committees. She provided an affidavit detailing her knowledge of documents addressed to Hamid Shabbir relating to the procurement of the Dialysis Machines.

F8

**Other documentary records of Intaka seized by the SAPS**

- 9.056 I identified the following additional e-mails and correspondence in the documents of Intaka seized by the SAPS:

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- 
- |   |  |
|---|--|
| 1) A Skyros Health quotation dated 10 August 2006 addressed to Northern Cape DOH for the attention of Dr Hamid Shabbir. It is identical to the Skyros Health quotation previously referred to but it has been signed by what appears to be Tracey Ward.   | E1<br>C1/2                                   |
| 2) An e-mail from Alicia Marcos to Tracey Ward dated 24 January 2007 at 10:36 am. The writer refers to the details for a letter she is preparing. The e-mail address of Dr Shabbir is provided: <a href="mailto:hshabbir@mweb.co.za">hshabbir@mweb.co.za</a> . Attached is a handwritten note that appears to be the wording for the letter.  | E2/1<br>E2/2                                 |
| 3) An e-mail from Tracey Ward to Dr Shabbir dated 24 January 2007 at 12:13pm. She has attached the letter referred to above titled "Request for Assistance with Outstanding Payment" dated 24 January 2007 and an age analysis in respect of invoice number 185 in the amount of R4,000,000. The letterhead is the same as that prepared on the manipulated quotation of Skyros Health; the addresses and names of the Directors that link Skyros Health to Intaka and Dr Savoi and Rodrigo Savoi have been excluded.   | E3/1<br>E3/2<br>E3/3<br>E3/2<br>C1/6<br>C1/2 |
| 4) A letter from Northern Cape DOH DM Gaborone, CFO to Skyros Health attention Tracey Ward dated 26 January 2007 refers to her letter of 24 January 2007. He advised her that R4,000,000 would be paid into Skyros Health bank account on 29 January 2007. A BAS print out dated 24 January 2007 17:16 reflecting the payment of R4,000,000 to Skyros Health for order number G 217773.   | E4/1<br>E4/2                                 |
| 5) An e-mail from Alicia Marcos to Tracey Ward dated 26 January 2007 04:24 pm titled "Re Dialysis Machines". She has requested Tracey Ward to send a fax to Mr Gaborone acknowledging receipt of his fax and thanking him for the information. She concludes as follows: "Remember to send it in the same letterhead as you sent to the MEC". As stated above the letter to the MEC was prepared without the addresses and names of the Directors that link Skyros Health to Intaka and Dr Savoi and Rodrigo Savoi. Hence, the intention to deceive Gaborone and to hide the true identity of Skyros Health. Attached is the letter requested dated 26 January 2007 on the manipulated letterhead of Skyros Health and fax receipt. | E5/1<br>E5/2<br>E5/3                         |
| 6) An e-mail from Alicia Marcos to Tracey Ward dated 29 January 2007 02:45 pm titled "Watertech". The body reads as follows: "Dear Tracey, please send an e-mail to Elma Oosthuizen of Watertech (I attach the details). Ref: 16 dialysis machines. Please send your invoice to Skyros Health for the following concept:  | E6/1   |
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*Commission in respect of sale of 16 dialysis machines to the following hospitals.  
 Total R612,109 including VAT.*

*If you are going to send the text in Skyros Health letterhead, please use the one that you used to send the fax to MEC of the Department of Health Northern Cape (not mentioning Dr Savoi and Rodrigo Savoi)".* I determined during the course of investigating the procurement of water purification plants by the Northern Cape DOH from Intaka, that an entity known as Watertech had received "commission" payments from Intaka. I will elaborate on Watertech later in this report and how it is linked to Elma Oosthuizen referred to in the e-mail above and Dr Hamid Shabbir. The conclusion of this e-mail again reflects the intention to deceive and to hide the true identity of Skyros Health.

- |    |  |      |
|----|--|------|
| 7) | Attached to the e-mail is an information sheet relating to Watertech. The company registration number is recorded as 2006/145315/23. The banking details are recorded as Standard Bank Ltd, name of account holder Stratfit cc, account number 040090116, branch code 051001 Chapel Street, Kimberley. | E6/2 |
| 8) | An electronic record of the e-mail referred to in sub-paragraph 6) above was also identified in the electronic data seized by the SAPS from Intaka.  | E6/3 |

**Northern Cape DOH officials involved in the procurement and payment procedures for the 16 Dialysis Machines purchased from Skyros Health**

9.057 I have referred to the role played by Mitha, Gaborone and Shabbir in the respective procurement and payment procedures for the 16 Dialysis Machines purchased from Skyros Health. I wish to briefly refer to their official positions at the time as contained in their personal records maintained by the Northern Cape DOH.

**i. Sanjay Mitha**

- |       |   |                  |
|-------|---|------------------|
| 9.058 | I determined from the Department's Persal records that SK Mitha (Mitha), identity number 710129 5016 082 was employed by the Northern Cape DOH; he was appointed on 1 April 1998 and resigned on 30 June 2007. A letter on a Department of Health letterhead dated 30 March 2005 contained in his personal file maintained by the Northern Cape DOH, reflects that Mitha was appointed to the post of Director: | G1/1-3<br>G1/4-5 |
|-------|---|------------------|

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Hospital Revitalisation and Infrastructural Development effective 1 April 2005. On the date of assumption of duty he was to report to the office of the Head of Department, Kimberley Office Complex. A further letter on Department of Health letterhead dated 27 October 2006 contained in his personal file reflects that Mitha was relocated from the Hospital Revitalisation Component to Supply Chain Management effective 1 November 2006. A curriculum vitae attached to the bundle of documents relating to the aforementioned post, reflects his full names as Sanjay Kumar Mitha with identity number 710129 5016 082. Two of his references are Mr DD Madyo, HOD, Department of Health, Northern Cape Province and Dr H Shabbir, CEO, Kimberley Hospital Complex.

G1/6

G1/7-12

**II. Daniel Gaborone**

9.059 I determined from the Department's Persal records that DM Gaborone (Gaborone) id 690815 5655 085 is employed by the Northern Cape DOH. He was appointed on 1 July 2000 and is still employed by the said Department. A letter on a Department of Health letterhead dated 11 July 2000 contained in his personal file maintained by the Northern Cape DOH, confirms the said appointment as a Deputy Director. His was appointed as Chief Financial Officer (CFO) for the Northern Cape DOH for a period of 5 years with effect from 1 January 2002, in terms of a letter issued to him dated 30 November 2001. The appointment was accepted by him in terms of an undated "Acceptance of offer of employment". He further signed a Senior Management Performance Agreement for the period 1 April 2006 to 31 March 2007, on 26 October 2006, at which time he was still the CFO. I understand that Gaborone is currently the CFO of the Kimberley Hospital Complex.

G2/1-3

G2/4

G2/5-6

G2/7

G2/8-16

**iii. Hamid Shabbir**

9.060 I determined from the Department's Persal records that Hamid Shabbir (Shabbir) identity number 650703 5878 089 was employed by the Northern Cape DOH; he was appointed on 1 August 1993 and resigned on 20 August 2008, at which time he was the Chief Executive Officer (CEO) of Kimberley Hospital. His resignation was confirmed in a letter dated 19 July 2008 contained in his personal file maintained by

G4/1-3

G4/4

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the Northern Cape DOH. A further document titled "Hamid Shabbir" under Career Progression reflects the following: **G4/5-8**

- 1) Acting CEO Kimberley Hospital Complex since 2003;
  - 2) Medical Director Kimberley Hospital Complex June 2001 to September 2003;
  - 3) Principal Medical Officer Kimberley Hospital Complex August 1993 to May 2001.
- In terms of a Northern Cape DOH letter dated 31 August 2004 he was appointed CEO of Kimberley Hospital Complex with effect from 1 August 2004. **G4/9-10**

9.061 In addition to the above 3 officials, I determined that Nelmarie Oosthuizen, referred to in the e-mail from Alicia Marcos to Tracey Ward dated 29 January 2007 02:45 pm titled "*Watertech*" was previously employed by the Northern Cape DOH. **E6/1**

**iv. Nelmarie Oosthuizen**

9.062 I determined from the Departments Persal records that Nelmarie Oosthuizen (*Oosthuizen*) identity number 750525 0016 087 was employed by the Northern Cape DOH; she was appointed on 1 August 1998 and resigned on 31 January 2006. At the time of her resignation she was an administrative officer. Her resignation was confirmed in a letter dated 30 December 2005 contained in her personal file maintained by the Northern Cape DOH. **G5/1-3**  
**G5/4**

**Skyros Health Standard Bank account**

9.063 An application to open an Enterprise/ Business account was seized by the SAPS from Intaka premises for "Skyros Health (Pty) Ltd, registered address No 2 Fairhill Park, No 7 Bell Crescent, Westlake Business Park, Westlake, Tokai. The physical and registered addresses are the same as those appearing on the Skyros Health quotations before they were altered, and not the registered office address "27<sup>th</sup> Floor, 1 Thibault Square, Cape Town, 8001" appearing on the Skyros Health quotation subsequently submitted to the Northern Cape DOH **H1/1**  
**C1/2-3**  
**D7/1**

9.064 The contact persons and contact details are recorded as follows: **H1/2**

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| Contact person    | <i>illegible</i> | Contact telephone # | E-mail   |
|-------------------|------------------|---------------------|--|
| Dr G Savoi        | Director         | 021- 7013129        | <a href="mailto:Gsavoi@skyros.co.za">Gsavoi@skyros.co.za</a> |
| Dr L De Lange     | Director         | 0832618530          | <a href="mailto:capemed@31.co.za">capemed@31.co.za</a>       |
| *Mr Rodrigo Savoi | Director/CEO     | 021- 7013129        | <a href="mailto:rsavoi@skyros.co.za">rsavoi@skyros.co.za</a> |

\*Replaced Mr G Sinclair

9.065 The authorised signatories are listed as: H1/3

- 1) Dr Gaston Savoi;
- 2) Dr Leonard De Lange;
- 3) GC Clothier Sinclair (no signature provided);
- 4) Rodrigo Savoi;
- 5) Adriaan Laubscher;
- 6) Alicia Marcos (no signature provided).

9.066 Section E- The Resolution was signed on 12 October 2005 by what appears to be H1/4  
 Rodrigo Savoi and Leonard De Lange.

9.067 The SAPS subpoenaed Standard Bank who provided bank statements for Skyros Health (Pty) Ltd, no 2 Fairhill Park, 7 Bell Crescent, Tokai, 7945, account number 62109604183. I am not aware of another bank account held by Skyros Health at Standard Bank. Standard Bank did not provide the opening documents or signature cards. I have not attached all the bank statements to this report. Statement number 1 covers the period 31 July 2006 to 31 August 2006; the opening balance was zero H2/1  
 and the closing balance R106.29dr. Hence, it appears the account was opened in July 2006. On 29 January 2007 a magtape credit was made into the said account in H2/1  
 the amount of R4,000,000 with reference "Basshw Nc Health 000077784". The disbursement number according to the Northern Cape DOH BAS records is 77784 C3  
 for a payment of R4,000,000 on 29 January 2007 and hence the payment was made E4/2  
 by Northern Cape DOH. On 1 February 2007 an internet payment in the amount of H2/5  
 R2,528,130.22 was made to Leon De Lange. This is R728,389.42 (R2,528,130.22- H2/5  
 R1,799,740.80) more than the 16 dialysis machines were procured from SSEM Mthembu for. On 27 February 2007 an internet payment in the amount of R612,000

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was made to Watertech.

**Stratfit cc trading as Watertech**

- 9.068 I previously referred to an Intaka information sheet relating to Watertech with company registration number is recorded as 2006/145315/23. I determined that the said registration number is allocated to Stratfit cc which trades as Watertech (Watertech) registered on 23 August 2006. The sole member (active principal) is Saima Shahzad id 700731 0627 086 (Salma Shahzad) effective 30 January 2007, whilst Barend Barnadt (Barnadt) was a member from 23 August 2006 but has resigned (date unknown). E6/2 B7
- 9.069 I previously referred to the e-mail from Alicia Marcos to Tracey Ward dated 29 January 2007 02:45 pm titled "Watertec" included "Commission in respect of sale of 16 dialysis machines to the following hospitals. Total R612,109 including VAT". I further concluded that the e-mail reflected the intention to deceive and to hide the true identity of Skyros Health. I conducted an interview with Adriaan Laubscher (Laubscher) who was employed as the financial manager at Intaka Manage (Pty) Ltd from October 2005 to March 2008. He resigned in October 2007, but stayed on until March 2008, the last three months of which were in a consulting capacity. He informed me that prior to resigning from Intaka a number of transactions that resulted in payments to various entities came to his attention that made him suspicious that entities in the Intaka Group were involved in some irregular activity. As a result of his concerns, on 14 March 2007 he scanned and e-mailed copies of some of the documents supporting the suspicious payments to an external e-mail address where he later retrieved the e-mails. One of these documents he provided is a Watertech invoice number 1 dated 15 January 2007. It is addressed to Skyros Health for "Commission on sales" in the amount of R612,000. The bank account details are recorded as Stratfit cc, Standard Bank Chapel Street, Kimberley, branch code 051001 and account number 040090116; this is consistent with the information sheet of Watertech in Intaka's records. E6/1 H3 E6/2
- 9.070 A Marketing and Distribution Agreement (the Watertech Agreement) entered into H4

References in the margin refer to  
 appendix numbers

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between Intaka and Watertech seized by the SAPS from Intaka premises, was signed on 11 January 2007 for **the distribution of composite of chemicals** effective from the date of signature for a period of 1 year. It appears to be signed by Dr Savoi on behalf of Intaka and Nelmarie Oosthuizen on behalf of Watertech, based on her signature recorded on her letter of resignation referred to earlier. The definition of "the products" to be marketed and distributed appears to be chemicals only for the water purification plants sold by Intaka, as recorded in the Preamble and Annexure 1 to the Watertech Agreement. The agreement was signed (11 January 2007) just prior to Saima Shahzad becoming a member (30 January 2007). Hence, the entity appeared not to have traded prior to this. The Skyros Health quotation is dated 12 October 2006 addressed to Hamid Shabbir of Northern Cape DOH. There is no evidence of Watertech involvement between Skyros Health and the Northern Cape DOH that would entitle them to a commission on the sales of the Dialysis Machines.

H4/15-16

G5/4

H4/3

H4/4

H4/17

D7/1

9.071 Stratfit cc Standard Bank account number 040090116 was subpoenaed by the SAPS. The Application to open an Enterprise/ Business account, reflects the following:

H5

- 1) The document was completed in respect of Chapel Street branch and is dated 19 December 2006;
- 2) The postal address is furnished as PO Box 3211, Kimberley. This is the same postal address provided by Shabbir on a form Z864 National Treasury Pensions Administration Personal Particulars in the personal file of Shabbir previously discussed;
- 3) The type of business conducted is recorded as Hotel and Restaurant;
- 4) Dr Maqbool is recorded as the Manager with contact telephone number 053-8331472;
- 5) The references are: Meridian Hotel Dr Maqbool telephone number 082 468 3982; and Dr Shabbir telephone number 083 411 9017. The contact telephone for Dr Maqbool is the same number as that provided by Saima Shahzad as sole member on page 2 of the Application. Her address is furnished as 20 Kestel Street, Monument Heights. Shabbir's address on the form Z864 is 16 Kestel

G4/12

G4/12

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Street, Monument Heights.

- 9.072 A Consumer Report enquiry was conducted for Shabbir. His address is listed as PO Box 3211, Kimberley, being the address of Watertech per Standard bank records and 16 Kestel Street, Kimberley. A Consumer Report enquiry was also conducted for Saima Shahzad. One of her addresses is 20 Kestel Street, Kimberley. Under employer information the name Dr Maqbool is recorded. I further determined from a Kredit search report that an entity known as Kim Corp 960 cc with registration number 2004/097688/23 was registered on 16/09/2004. Shabbir is an active principal and his address is recorded as 16 Kestell Street, Kimberley. Shahzad Maqbool is another active member and his address is listed as 20 Kestell Street, Kimberley; and hence the name Shahzad linked to Saima Shahzad. I understand that the said Shahzad Maqbool and Saima Shahzad are husband and wife. The documentation discussed above would indicate that Shabbir, (Dr) Shahzad Maqbool and Saima Shahzad are linked to Watertech. When the SAPS went to conduct a search of 20 Kestel Street, Kimberley they located a Dr Mahmood and Dr Bushra who were living there since December 2008. Neither Shahzad Maqbool nor Saima Shahzad could be traced. Shabbir was found to be the occupant of 16 Kestel Street, Kimberley where the SAPS conducted a search. B8  
B9  
B10
- 9.073 I examined the personal file of Shahzad Maqbool maintained by the Northern Cape DOH and determined the following: G6
- 1) A copy of his identity number reflects his full names as Shahzad Maqbool id 640601 6044 185, born in Pakistan and issued on 1994/09/27. G6/1
  - 2) A Persal Administration: NC Health: Enquiry Service Record dated 16 April 2009 reflects he was appointed on 13 February 2001 and was still employed by the Department on 16 April 2009. G6/2  
G6/3
  - 3) A Northern Cape DOH letter dated 16 April 2009 reflects that Shahzad Maqbool ID 640601 6044 086 worked in the Kimberley Hospital Complex from 1 September 2001 to date (being 16 April 2009). G6/4
  - 4) Page 1 of a form National Treasury Pensions Administration Withdrawal from Fund, reflects he resigned on 31 January 2010. G6/5

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- 5) A "Naeem Translation House", Islamabad form is a Marriage Certificate. It reflects that Shahzad Maqbool date of birth 01/06/2004 was married to Saima Mazhar dated of birth 31/07/1970, on 12 November 1994. G6/6-7
- 6) A Republic of South Africa Permit for Permanent Residence reflects that the permit was issued to Shahzad Maqbool on 5 July 1993. Attached is a certified copy of birth entry no 55/96 issued in Lahore on 14/03/1996. It reflects that infant as Dania, the fathers name as Shahzad Maqbool and the mothers name as Saima Shahzad. Also attached to these 2 documents is a copy of an identity book of Saima Shahzad; it reflects her id 700731 0627 185, born in Pakistan and issued on 1998/07/08. G6/8  
G6/9  
G6/10
- 9.074 I further examined statements no 1 to 41 inclusive subpoenaed by the SAPS from Standard Bank iro Stratfit cc account number 040090116 and determined the following (I have not attached these bank statements in their entirety): H6
- 1) Statement number 1 reflects a zero opening balance as at 1 January 2007 and a debit service fee of -R55.00 on 31 January 2007. H6/1
- 2) Statement number 2 is dated 6 March 2007 and covers the period 7 February 2007 to 1 March 2007. The opening balance as at 7 February 2007 was -R55. A credit transfer in the amount of R877,193 was made by Intaka Investments on 16 February 2007 (I have already investigated this payment and it is covered in a separate report as it relates to the water purification plants investigation). A "Magtape Credit 9234 Skyros Health (Pty) in the amount of R612,000 was made on 28 February 2007. H6/2
- 9.075 I have discussed this account in detail in the report issued by me in respect of the procurement of 10 water purification plants by the Northern Cape DOH from Intaka that deals with commission payments made by Intaka to Watertech. I do not deem it necessary to repeat same.
- 9.076 However, I determined that Stratfit had made a payment to Bennie Burger on 10 September 2007 in the amount of R3,499.80. I determined that Bennie Burger is a member of Benjamin Accounting Services cc t/a Accounting Kimberley and I pursued
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this in an effort to trace Saima Shahzad as her whereabouts are unknown. Benjamin Burger (**Bennie Burger**) was interviewed and provided the following information relevant to Watertech:

- 1) He is the auditor of Watertech and they have been his client since early 2007 when the business started trading;
- 2) The owner and sole member of Watertech is Saima Shahzad. He has never been informed of any change in membership. He never met Shahzad in person or spoke to her and always dealt with Nelmarie Oosthuizen (also known as Elma) who is the Operations Manager of the business and the primary contact person for Watertech;
- 3) Shabbir is unknown to him and he is not aware if he was ever a member of Watertech. The first time he saw documentation relating to Shabbir was when Oosthuizen requested him to add Shabbir as an employee on the payroll of Spectrum Health.

Bennie Burger provided an affidavit confirming the above.

F9

**E-mails and other correspondence linking Shabbir to Watertech**

9.077 I identified the following additional documents linking Shabbir to Watertech and his relationship with Dr Savoi and/or Skyros Health, and Leon De Lange's link to Skyros Health:

- 1) An e-mail from Tracey Ward to [hshabbir@mweb.co.za](mailto:hshabbir@mweb.co.za) on 1 February 2007 at 08:03 am, titled "quotation- various medicine"; J1/1-3
- 2) A letter on a Skyros Health letterhead dated 10 May 2007 addressed to Watertech for the attention of Dr H Shabbir, which has been deleted and replaced with "Spectrum Health" and "Elma" (Bennie Burger has referred to Spectrum Health however I have not performed a detailed investigation into this entity. The subject is "Re: Quotation for dialysis consumables". This letter appears to have been signed by Rodrigo Savoi, as CEO. J2/1-2
- 3) An e- mail from Alicia Marcos to Tracey Ward on 21 May 2007 at 08:45 am titled "FW: Rapid tests". The body reads as follows: "*Dear Tracey, please send an e-mail/ fax to Watertech attention Elma Oosthuizen with copy to Dr Shabbir with the*" J3

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*text of Dr de Lange's email signed by Rodrigo Savoi or you on behalf of Skyros Health. Also attach the pictures but only if you do something to erase the name of the company (Smart Check Rapid Diagnostic Products Global Medial SA (Pty) Ltd). Try with paint even if it doesn't look perfect it works".*

- |   |   |
|---|---|
| 4) E-mail between Alicia Marcos and Tracey Ward on 9 May 2007. The e-mails relate to a fax sent by Dr Leon De Lange to "Intaka Health" for the attention of "Alicia Marcos" and "Dr G Savoi" on 6 May 2007. He refers to an attached quotation for hospital equipment and a quotation for the disposables for the Dialysis Machines; the latter is on a Cape Medical Supplies letterhead. Alicia Marcos requested the following from Tracey at 05:02 pm (on 9 May 2007): "could you please add 20% to the quotation sent by Dr De Lange and print it in Skyros Health letterhead paper? I need it for tomorrow at 11:30". Attached are the quotations of Skyros Health that includes the 20% mark up on Dr De Lange's prices. | J4/1-2<br>J4/3<br>J4/4-5<br>J4/6-7<br>J4/1<br>J4/8-10 |
|---|---|

**Affidavit of Graham Clive Clothier- Sinclair**

- |       |  |     |
|-------|--|-----|
| 9.078 | I was provided with a copy of an affidavit obtained by the SAPS from Graham Clive Clothier- Sinclair (Clothier- Sinclair). I do not deem it necessary to repeat same, but make reference to it in so far as it relates to the investigation of the Dialysis Machines and whether this is supported by other documentary evidence:  | F10 |
| 1)    | He was the sole member of Sinbiz. Leon De Lange then bought an interest in Sinbiz. Sinbiz was then sold to Skyros Health and he received a 9% interest in Skyros Health. He has not referred to any dates. The Kreditinform enquiry reflects he became a member of Sinbiz on 5 May 2005 and he is still a member. It also reflects that he resigned, but I am unable to determine the date. It further reflects that Leon De Lange was also appointed on 5 May 2005 and resigned, but I am unable to determine the date. It does not reflect that either Dr Savoi or Rodrigo Savoi were members of Sinbiz. | B5  |
| 2)    | He received a 9% share in Skyros Health and was appointed on 1 February 2006 as a Director. The balance of the shares was Savoi Family Trust 51% and Dolphin Trust IT 3078/96 (De Lange) 40%. The other company Directors were   |     |

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Leon De Lange, Dr Savoi and Rodrigo Savoi. In July 2006 he sold his Skyros Health shares to Skyros Health and as part of the deal he assumed ownership again of Sinbiz. The Kreditinform enquiry confirms he was appointed as a director of Skyros on 1 February 2006 and that he resigned; I am unable to determine the date of resignation.

**B4**

- 3) He denied knowledge of any of the Sinbiz quotations shown to him and stated that it is also not his signature appearing on those quotations purporting to be his signature. He further has no knowledge that a Sinbiz quotation was submitted by Skyros Health to Dr Hamid Shabbir of the Northern Cape DOH as part of the procurement process to supply Dialysis Machines. He added that Sinbiz was still the property of Skyros Health at the time of the quotations; it was only returned to him in mid- 2007 and he was not in a position to provide quotations on behalf of Sinbiz. I agree with him that the signatures appearing on the disputed Sinbiz quotations purporting to be his, differ to his specimen signature and concur that the signatures appear to have been forged. I am unable to confirm the date he assumed ownership again of Sinbiz. There is no evidence (apart from the quotations themselves) that he prepared the quotations or that he sent them to the Northern Cape DOH as part of a formal procurement procedure; the evidence reflects they were prepared and submitted from Intaka premises and by Intaka staff.

**C1/11-12**

**D7/3**

- 3.079 It has been reported to me that Leon De Lange was approached by the SAPS and has denied any wrongdoing; including denying that it is his signature on the Cape Medical Supplies quotations created by Marcos. It is evident that the Cape Medical Supplies quotations that De Lange claims are forged were used to inflate the prices the Northern Cape Department of Health agreed to pay for the Dialysis Machines.

**Verification and Inspection of Dialysis Machines at Kimberley Hospital Complex**

- 9.080 I previously referred to Sister Gilbert's explanation in so far as it relates to the status of the sixteen (16) x Bellco Haemodialysis machines supplied by SSEM Mthembu on behalf of Skyros Health. According to Sister Gilbert 9 machines were delivered to

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Kimberley Hospital in 2007 (after the machines were initially delivered to other hospitals and then taken to Kimberley Hospital) and the remaining 7 were placed into operation on 1 September 2010. On 16 September 2010 I determined from a member of my team who visited Kimberley Hospital, that 9 machines are being used at Kimberley Hospital. On 6 October 2010 I visited Kimberley Hospital and verified the above. I further determined that the remaining 7 dialysis machines are marked No 10 to No 16 inclusive and the date of delivery is marked as 01/09/2010. This was the first time the machines were opened from their original packaging after being delivered on 8 December 2006 i.e. approximately 3 years and 8 months later. The following note appears on machine marked No 16: *"Enter Choice 1 tested 21-09-2010 was used only once and did not finish dialysis. Time worked for 30 min"*. I attach hereto photographs taken on 16 September 2010 and 6 October 2010.

J5

- 9.081 I further attach hereto a spreadsheet containing the serial numbers and the original delivery note details of 8 December 2006, of the 7 Dialysis Machines delivered to Kimberley Hospital on 1 September 2010.

J6

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**Summary of Findings**

- 9.082 Detailed below is a summary of significant findings from the investigation conducted into the procurement of Dialysis Machines by the Northern Cape DOH from Skyros Health:
- 1) Skyros Health, an entity based in the Western Cape and linked to Intaka, Dr Savoi, Rodrigo Savoi, Marcos, Ward and Leon De Lange received an order from the Northern Cape DOH in the amount of R4,000,000 on 27 November 2006, for the supply of sixteen (16) x Dialysis Machines. B4, H1  
D8
  - 2) This was preceded by the formation of a Project Team in approximately 2004 who identified a need for the establishment of Satellite Renal Units at Upington (Gordonia hospital) and De Aar (Sentraal Karoo hospital) as a matter of urgency, that would improve the quality of service delivery to patients by making dialysis machines accessible, available, efficient and effective to all patients. The Project Team met in August 2005 and May 2006. Sister Gilbert, employed as a Chief Professional Nurse in the Renal Unit, Kimberley Hospital complex was a member of the Project Team. F1
  - 3) During September and October 2006 Sister Gilbert obtained copies of quotations from service providers known to her namely: F1
    1. Fresenius Medical Care;
    2. Adcock Ingram; and
    3. B Braun.
  - 4) The Departmental Evaluation Committee held a meeting on 8 November 2006; being the 1<sup>st</sup> meeting of the newly formed committee. Mitha attended the meeting on behalf of SCM in an Advisory Capacity. The purpose was the "evaluation of offers received for the purchase of 16 Renal Dialysis Machines, De Aar Hospital, Gordonia Hospital, Sanjay please add other names". I am unable to determine why 16 dialysis machines were required, as the meetings of the Project Team only referred to 2 for Upington and 2 for De Aar, nor how Mitha (referred to above as Sanjay) as an SCM representative was in a position to provide the names of the other hospitals as he was not a member of the Project Team. D4
  - 5) The meeting was presented with five (5) x "offers" (I assume written quotations, D4/1

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however I was not provided with the said documents presented to the Project Team):

1. B Braun Medical;
  2. Cape Medical;
  3. Skyros Medical;
  4. Sinbiz; and
  5. Bellco.
- 6) The Task Team was unable to make a comparative assessment as specifications varied from supplier to supplier and it was reported in the minutes that it would be improper to make a decision based solely on price. In addition no offer was received in respect of the Reverse Osmosis plant. D4/2
- 7) Werner Groenewald, Clinical Technologist was tasked with the drafting of uniform specifications that meet the requirements of the Institutions concerned. He requested that Vincent Halvey, Clinical Engineering, Kimberley Hospital Complex be co-opted to assist him with the specifications in respect of the Osmosis plant. The specifications were to be presented to the committee before 24 November 2006. In addition should more information be required Companies would be requested to give a presentation. D4/2
- 8) The Evaluation Committee did not meet again subsequent to the said meeting of 8 November 2006 to receive the specifications compiled by Groenewald on or before 24 November 2006. However, a Submission was prepared titled "Procurement of Dialysis Machines" dated 24 November 2006. The author of the document is unknown, however all previous Submissions prepared in respect of water purifications plants and oxygen plants procured by the Northern Cape DOH from Intaka were prepared and submitted by Sanjay Mitha. He was the Director SCM at the time and also attended the Project Team meeting of 8 November 2006 previously referred to. Yvonne Nowell recalls Mitha bringing some of the quotations to the said meeting. She further alleged that Mitha showed her the Submission (a signed version) at the time he instructed her to bring an order book to his office as the MEC wanted the Dialysis Machines ordered immediately. I therefore suspect that Mitha prepared the Submission in question. F2-F4
- D6/1-3
- D4
- F4

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9) The Submission reflects the Department received 4 quotations:.

**D6/2**

|   |                          |                             |
|---|--------------------------|-----------------------------|
| 1 | Skyros Health            | R250,000 with RO filters    |
| 2 | Sinbiz cc                | R259,000                    |
| 3 | Cape Medical Supplies cc | R261,000                    |
| 4 | B Braun                  | R200,457 without RO filters |

10) The number of Dialysis Machines required however, increased from 16 to 22. A breakdown of how the 22 Dialysis Machines were to be distributed to 9 hospitals was included in the Submission. The writer (as previously stated whom I suspect to be Mitha) concluded: *"It is recommended that two companies be awarded the procurement of these machines namely, Skyros Health and B. Braun. Furthermore, the former company has indicated that the renal machine is equipped with a reverse osmosis filter"*.

**D6/2**

11) It was recommended by Dr V Mafungo, Acting Head of Department on 27 November 2006 and approved by Ms ES Selao, MEC for Health on the same day.

**D6/3**

12) I am unable to determine how the need for dialysis machines progressed from 2 hospitals, namely Gordonia and De Aar, and planning for another 3 namely Springbok, Kuruman and Calvinia by the Project Team, to 9 hospitals. I have not been provided with any documentation reflecting the Project Team made such a decision. It is further evident that the specifications that were to be prepared by Groenewald with the assistance of Halvey, was not presented to the Departmental Evaluation Committee prior to 24 November 2006 (I will again refer to Groenewald below). It is unclear from the Submission in question whether it was approved in terms of an urgent or emergency case; that permits the Accounting Officer to deviate from the official acquisition processes established by the Northern Cape DOH SCM Policy and acquire any required goods/ services through any convenient processes.

**D2/1**

**D6/2**

**D9**

**A5/31**

13) The 4 quotations comprised the following:

1. Skyros Health quotation dated 12 October 2006. I determined this quotation was changed, manipulated and prepared at Intaka. It was addressed to the Northern Cape DOH for the attention of Hamid Shabbir.

**D7/1**

**C1/6**

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|  |                        |
|--|------------------------|
| 2. Cape Medical Supplies quotation dated 8 August 2006. I determined that this quotation had been was changed, manipulated and prepared at Intaka. It was addressed to the Northern Cape DOH for the attention of Hamid Shabbir.   | D7/2<br>C1/7           |
| 3. Sinbiz quotation dated 11 October 2006. I determined that this quotation had been was changed, manipulated and prepared at Intaka. It was addressed to the Northern Cape DOH for the attention of Hamid Shabbir.  | D7/3<br>C1/12          |
| 4. B Braun Medical quotation dated 9 October 2006. I determined this was 1 of the 3 quotations requested by Sister Gilbert.  | D7/4<br>D3/5           |
| 14) Also attached was: a B Braun letter dated 21 October 2006 addressed to Groenewald that includes a quotation for a Dialog and Double Pump Standard in the amount of R111,720 and Optional Extras, amounting to R200,483 according to a handwritten calculation); and 2 documents purporting to be specifications for a "Formula" machine from Belco and Cape Medical Supplies. The Submission indicates the said specifications were obtained from Skyros Health (Formula machines) and B Braun (Belco machines).   | D7/6                   |
| 15) Also attached was a Skyros Health letter dated 10 November 2006 addressed to the Northern Cape DOH for the attention of Hamid Shabbir reconfirming their machine comes with a reverse osmosis filter.  | D7/9                   |
| 16) Groenewald confirmed that he prepared a specification document as requested by the Departmental Evaluation Committee, but that it was never presented to the said committee nor used for the purpose it was intended. He was not familiar with Cape Medical Supplies, Skyros Health, Sinbiz and Belco, names provided by the Departmental Evaluation Committee. He provided a number of e-mails and correspondence where he dealt with Dr Leon De Lange of Skyros Health. The same person was the purported signatory of the Cape Medical Supplies quotation, however Groenewald knew him from Skyros Health only. | D9<br>F3/59-77<br>D7/2 |
| 17) Nowell confirmed that Mitha was in possession of the signed Submission and instructed her to issue the order to Skyros Health for 16 Dialysis Machines @ R250,000 each amounting to R4 million, despite the fact that he was aware that Groenewald was preparing the Specification documents and that SCM was preparing an official tender document (he also attended the meeting of the Departmental Evaluation Committee of 8 November 2006).  | F4<br>D6<br>D8         |
| 18) Clothier- Sinclair confirmed that he has no knowledge of the Sinbiz quotations in  | F10                    |

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| possession of Intaka and the Sinbiz quotation attached to the Submission and hence the Sinbiz quotation has been forged.  | C1<br>D7/3  |
| 19) The 16 Dialysis Machines were delivered by SSEM Mthembu for Skyros Health to 7 hospitals in the Northern Cape DOH during the period 6-8 December 2006.  | D13/6-12  |
| 20) Roydon Peirone of SSEM Mthembu stated that he provided a quotation to Leon De Lange of Cape Medical Supplies on 4 August 2006 for the supply of 16 Formula Dialysis Machines. The price was R123,337.50 less 20% discount and VAT that amounted to R112, 483.80. The forged Cape Medical Supplies quotation to the Northern Cape DOH dated 8 August 2006 was R261,000 each. SSEM Mthembu subsequently received the order from Cape Medical Supplies in September 2006 and invoiced them on 26 October 2006. On 1 December 2006 De Lange instructed SSEM Mthembu to deliver the machines to hospitals in the Northern Cape DOH and also provided Skyros Health delivery notes. Peirone stated that he was not familiar with Skyros Health and had not dealt with them previously. SSEM Mthembu made the deliveries as instructed by De Lange. He added that the Formula Dialysis Machines provided by SSEM Mthembu comes standard with a multiple water inlet and a forclean dialystate filter; the Reverse Osmosis Filters are supplied separately. SSEM Mthembu invoiced Cape Medical Supplies R1,799,740.80 for the 16 Dialysis machines delivered to the Northern Cape DOH on 26 October 2006 and received payment on 5 February 2007; the Department paid Skyros Health R4,000,000. | F6<br>D14/1<br>D7/2<br>D14/2-3<br>D14/4-10<br>F6/18 |
| 21) It was reported to me by the SAPS that Leon De Lange has denied any wrongdoing in so far as the Cape Medical Supplies quotation is concerned, despite him being conclusively linked to Skyros Health.   | C1/9<br>D7/2  |
| 22) The collusive behaviour amongst Dr Gaston Savoi, Rodrigo Savoi, Marcos, Ward, Leon De Lange, Shabbir and Mitha, that included the preparation, submission and receipt of forged quotations, has been designed to establish bid prices at artificial non- competitive levels and to deprive the Department of the benefit of free and open market competition.   | D7/1-3<br>C1  |
| 23) This was further aggravated with the awarding of the order for 6 Bellco Dialysis Machines to B Braun. B Braun quoted an amount of R111,720 for the Dialysis machines only. Mitha then manipulated the process to increase the price of the B Braun machines to R200,457 per machine to include extras. B Braun offered to   | D15/3<br>D15/2<br>D15/4<br>F7                       |

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- provide 9 machines at the said price, but this was rejected by Nowell. It appears that Nowell was aware of the irregular behaviour of Mitha and did not act within the best interests of the Department. Her explanation is not reasonable. B Braun was awarded the order in question at the inflated price as it would otherwise have reflected that the Skyros Health price was more than double the B Braun price; R250,000 per machine compared to R111,720 per machine- the latter is also within a similar price range as the SSEM Mthembu price to Cape Medical Supplies being R112,483.80. B Braun also provided two Reverse Osmosis filters to the Department at no additional cost. D15/4
- 24) The Northern Cape DOH paid Skyros Health R4,000,000 on 29 January 2007. H2/2
- 25) Skyros Health made a payment in the amount of R2,528,130.22 to Cape Medical Supplies on 1 February 2007 i.e. within 2 days of receipt of payment from Northern Cape DOH. Peirone confirmed that SSEM Mthembu received payment of R1,799,740.80 for the 16 dialysis machines from Cape Medical Supplies on 5 February 2007 i.e. within 4 days of Cape Medical Supplies/Leon De Lange receiving payment from Skyros Health. H2/5
- 26) Shabbir, Saima Shahzad and Nelmar Oosthuizen conspired to set up a company Watertech and open a bank account. The main purpose was to receive undue benefits from Intaka in the form of commission's payable for alleged services rendered in respect of the sale of the water purification plants by Intaka to Northern Cape DOH. The said account was also used to receive an undue payment in the amount of R612,000 on 27 February 2007 from Skyros Health for "commission in respect of the sale of 16 dialysis machines". F6/18
- 27) The length of time it took for the 16 machines purchased from Skyros Health to be put into use is further indicative of the collusion; there was clearly no urgency or emergency for these machines and no need to deviate from procurement procedures, as all 16 are at Kimberley Hospital, 7 of which were delivered in their original packaging from other hospitals and used for the first time on 1 September 2010. It is my submission that the entire irregular procurement procedure was designed for purposes of self- enrichment as illustrated below: H5
- E6
- H2/6, H6/2
- J5/J6



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|   | Date                     | Payer                                | Recipient     | Amount ( R ) |            |
|---|--------------------------|--------------------------------------|---------------|--------------|------------|
| 1 | 29 January 2007          | Northern Cape DOH                    | Skyros Health | 4,000,000.00 | H2/2       |
| 2 | 1 February 2007          | Skyros Health                        | Leon De Lange | 2,528,130.22 | H2/5       |
|   | Sub- total               |                                      |               | 1,471,869.78 |            |
| 3 | 27 February 2007         | Skyros Health                        | Watertech     | 612,000.00   | H2/5, H6/2 |
|   | Net Skyros Health        |                                      |               | 859,869.78   |            |
| 4 | 5 February 2007          | Leon De Lange/ Cape Medical Supplies | SSEM Mthembu  | 1,799,740.80 | F6         |
|   | Net Leon De Lange (2- 4) |                                      |               | 728,389.42   |            |

28) In order to justify the highly inflated price of the Dialysis Machines of Skyros Health, the price of the Dialysis Machines of B Braun was manipulated and increased from R111,720 to R200,457; Mitha was instrumental in this process. There is no evidence that B Braun was involved in any irregular conduct or that they made any undue payments to officials and/or third parties. They offered to provide 9 machines at the same price, however Nowell declined this as it would reflect negatively on the highly inflated price of the Skyros Health machines. The Department could have paid B Braun R670,320 for six dialysis machines; they paid R1,202,742.

D7/4-5

F7/15

D12

  
**T S White**  
**Director: Forensic Services**  
**4 April 2011**

PricewaterhouseCoopers

References in the margin refer to  
 appendix numbers

M

# 12



TSW 12

In the matter between:

KIMBERLEY CAS 02/05/2010

THE STATE

And

GASTON SAVOI  
 FERNANDO PRADERI  
 JOHN BLOCK  
 FRANK MASHILO  
 NANDIPHA DAPHNE MADIBA  
 INTAKA INVESTMENTS (PTY) LTD/ INTAKA TECH (PTY) LTD/ INTAKA  
 HOLDINGS (PTY) LTD  
 INTAKA NORTHERN CAPE (PTY) LTD

ACCUSED 1  
 ACCUSED 2  
 ACCUSED 3  
 ACCUSED 4  
 ACCUSED 5  
 ACCUSED 6  
 ACCUSED 7

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 REPORT OF TREVOR SEAN WHITE
 

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|                              |   |
|------------------------------|---|
| Dated                        | 8 July 2011   |
| Specialist field             | Chartered Accountant and Forensic Auditor   |
| On behalf of the Prosecution | The Director of Public Prosecutions   |
| On the instruction of        | The Department of National Treasury   |
| Subject matter               | Investigation conducted into the purchase of one (1) x Water Purification Plant by the Sol Plaatje Municipality in the Northern Cape from Intaka Investments (Pty) Ltd. |



Trevor White  
 PricewaterhouseCoopers  
 PO Box 1049  
 DURBAN  
 4000

Telephone 031 271 2000  
 Facsimile 031 202 8220  
 Cell phone 082 454 6864



**Report of Trevor White**  
**Chartered Accountant and Forensic Auditor**

**The State v Gaston Savoi and others**

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*M*  
*J*



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**ABBREVIATIONS AND TERMINOLOGY**

The following are abbreviations and terminology that have been used in this report:

| <b><i>Abbreviated name/<br/>terminology</i></b> | <b><i>Full name and/or description</i></b>                                     |
|---|--|
| AFU   | Asset and Forfeiture Unit  |
| BAC   | Bid Adjudication Committee   |
| BEC   | Bid Evaluation Committee   |
| Brooker   | Russel Kevin Brooker, Sol Plaatje Municipality                                 |
| Bogacwi   | Mr KA Bogacwi, Infrastructure and Services, the Municipality                   |
| Cooper  | Tony Cooper  |
| Coetzee   | Stafford Coetzee, Head: Water Purification Works, the Municipality             |
| DFA   | Diamond Fields Advertiser  |
| Gerrans   | Tony Gerrans, Grotto   |
| Grotto  | Grotto Manufacturing (Pty) Ltd   |
| Intaka  | Intaka Investments (Pty) Ltd, Intaka Tech (Pty) Ltd, Intaka Holdings (Pty) Ltd |
| John Block                                      | John Fikile Block  |
| KZN   | Kwa-Zulu Natal   |
| KZN Health                                      | The Department of Health KwaZulu- Natal  |
| KZN LG & TA                                     | KwaZulu- Natal Department of Local Government and Traditional Affairs          |
| Lenyibi   | Patrick Lenyibi, former Mayor of the Municipality                              |
| Mashilo   | Frank Mashilo, former Municipal Manager of the Municipality                    |
| Matsie  | Sello Matsie, Communication Manager, the Municipality                          |

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|                   |   |
|-------------------|---|
| Madiba            | Nandipha Daphne Madiba, former Executive Director, Finance and Chairperson of the BAC, the Municipality |
| the Municipality  | The Sol Plaatje Municipality  |
| MFMA              | Municipal Finance Management Act, Act No 56 of 2003   |
| National Treasury | The Department of National Treasury   |
| Northern Cape DOH | The Northern Cape Department of Health  |
| PFMA              | Public Finance Management Act, Act 1 of 1999  |
| Praderi           | Fernando Praderi, Intaka  |
| PwC               | PricewaterhouseCoopers  |
| Romani            | Ansano Romani, Invusa   |
| SAPS              | South African Police Services   |
| Savoi or Dr Savoi | Dr Gaston Savoi, Intaka   |
| SCM               | Supply Chain Management   |
| Swiegers          | Willem Swiegers, Contract Administration Division, the Municipality                                     |
| Van Niekerk       | Ms J van Niekerk, the Municipality  |

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**A. AUTHOR'S DETAILS**

**1.000 Name**

1.001 Trevor Sean White.

**2.000 Personal details**

2.001 I am a male with identity number 6611245014087, 44 years old. I am a director of PricewaterhouseCoopers Advisory Services (Pty) Ltd, 102 Stephen Dlamini Road, Berea, Durban with telephone number (031) 2712000.

**3.000 Experience and qualifications**

3.001 I joined Price Waterhouse in 1989, and was admitted as a director of PricewaterhouseCoopers on 1 July 1998, following the merger of Price Waterhouse and Coopers and Lybrand. I am presently the director in charge of the KwaZulu-Natal Risk Advisory Services department, which incorporates the Forensic Investigations Department of PricewaterhouseCoopers in KwaZulu-Natal.

3.002 I have conducted numerous fraud investigations for both public and private sector clients and have given evidence in the South African High Court and the Regional Court and in the Lesotho High Court. I have also presented evidence to a Commission of Enquiry, the Commission for Conciliation, Mediation and Arbitration ("CCMA") and at various disciplinary hearings. I am trained in auditing techniques and hold a Bachelor of Commerce degree and Post Graduate Diploma in Accountancy from the former University of Natal Durban. I was also admitted as a member of the South African Institute of Chartered Accountants in 1992. I am a Certified Fraud Examiner, being admitted as a full member of the Association of the Certified Fraud Examiners, a Texas based organisation, in 1998. I have been involved in a number of business valuations and performance audits. My specialist field is Forensic Auditing and as such I have extensive experience in analysing, reviewing and verifying financial information and accounting records. I have also

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chaired three investigative Commissions of Enquiry into Fraud and Corruption in Swaziland.

**B. MANDATE AND ISSUES TO BE INVESTIGATED**

**4.000 Appointment**

4.001 The terms of our appointment are detailed in our agreement which was signed by Mr Freeman Nomvalo of the Department of National Treasury (**National Treasury**), on 2 July 2010. The said Agreement relates to the investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN Department of Local Government and Traditional Affairs (**KZN LG & TA**), the Northern Cape Department of Health (**the Northern Cape DOH**) and the Sol Plaatje Municipality (**the Municipality**) in the Northern Cape. This report covers the investigation into the purchase of one (1) x Wataka Water Purification Plant by the Sol Plaatje Municipality only; separate reports have been or will be issued for the investigation conducted at the KZN LG & TA; the procurement of Oxyntaka Self-Generating Oxygen Plants and Water purification systems by the Northern Cape DOH; and the purchase of Dialysis Machines by the Northern Cape DOH.

4.002 The following represents the General Procedures performed:

1. Requested and received payment reports from the Promun financial system of the Municipality for payments to Intaka who received an order for the supply of a Water Purification System and were paid by the Sol Plaatje Municipality, Kimberley.
2. Obtained supporting payment documentation.
3. In respect of the procurement procedures followed, obtained all relevant documents including quotations, applications to and approvals by the Bid Evaluation and Bid Adjudication Committee and minutes of meetings.

**Report of Trevor White**  
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**The State v Gaston Savoi and others**

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4. Interviewed and obtained affidavits where necessary from officials involved in the procurement procedure and/or who were referred to in relevant correspondence.
5. Determined whether any person involved in the procurement process or otherwise irregularly manipulated the procurement process to favour Intaka.
6. Visited and/or requested additional documentation and information from the Municipality where the water purification plant had been delivered and/or commissioned.
7. Interviewed third parties and obtained affidavits and supporting documents where necessary and applicable, including Intaka staff whose names featured on documentation and electronic records between the Sol Plaatje Municipality and/or officials, and Intaka.
8. Accompanied the SAPS investigating officer to Cape Town and reviewed the documents seized from Intaka.
9. Reviewed the electronic data copied by the SAPS from computers seized from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
10. Examined bank accounts subpoenaed by the SAPS.
11. Examined additional documents seized by the SAPS from Intaka.

4.003 I am not required to and did not undertake an audit in terms of the International Standards on Auditing. The scope of my work was limited to a review of the documentary evidence made available to me and enquiries undertaken to address issues identified in the execution of the investigation undertaken. I have not verified the authenticity or validity of the records and documents provided to me, unless otherwise stated.



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4.004 This report has been prepared solely for use in the criminal matter registered with the SAPS; Kimberley CAS 02/05/2010. It may also with the prior written consent of the Director of Public Prosecutions be used in any civil or disciplinary proceedings that the Sol Plaatje Municipality may wish to initiate. It may not be suitable for any other purpose and it should not be used, reproduced or circulated for any other purpose without my prior written consent. It should be a condition of such consent, if given, that PricewaterhouseCoopers and myself accept no responsibility to that third party and that such third party will hold PricewaterhouseCoopers and myself harmless in respect of any consequences of such disclosure. Whether or not I have given consent, PricewaterhouseCoopers and myself will not accept liability or responsibility to any other party who may gain access to this report.

4.005 I have included information relevant to the investigation and related circumstances but cannot conclude on the completeness of such information as the possibility exists that not all-relevant information and documentation was made available to me. Any documentation or information brought to my attention subsequent to the date of this report, which will affect the findings detailed herein, will require my findings to be adjusted and qualified accordingly.

4.006 This report contains hearsay evidence based on interviews conducted with individuals. I deem the aforementioned evidence to be appropriate to sketch the full picture of the allegations raised.

**5.000 Background**

5.001 During the course of an investigation conducted by PwC in the KZN Department of Health into allegations of tender and procurement irregularities for which undue payments were allegedly made and other financial irregularities, we received information and it was alleged that Intaka Investments (Pty) Ltd (Intaka) had received an order for the supply of water purification systems to the Department of Health KwaZulu- Natal (KZN Health) and that a corrupt payment was made to an official. We investigated this matter relying solely on the documentation in possession of KZN

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Health and interviews and information obtained from officials of the said Department. At this stage we were informed that Intaka was the subject of a criminal investigation and when we attempted to interview an employee of Intaka we were advised by their Legal Advisor that we were required to address all correspondence through him. Hence, we did not have access to Intaka's records or their employees who may have been involved in the provision of the water purification systems (plants). We were subsequently informed that the SAPS had conducted a search of Intaka's premises and had seized documentation. We initially did not have access to these records.

- 5.002 Following the said investigation we issued our report dated 30 November 2009, that included the investigation and findings at that date in respect of the supply of water purification systems to KZN Health by Intaka.
- 5.003 We were thereafter on 9 February 2010 mandated to extend our forensic investigation into the awarding of a contract for Oxyntaka self- generating oxygen plants to Intaka and to assist the SAPS with the review of the documents and computers seized from Intaka. We have completed the said investigation; and we issued a report in this regard dated 24 May 2010.
- 5.004 On 4 May 2010 we were appointed by National Treasury to conduct a preliminary investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN LG & TA and the Northern Cape DOH. The purpose thereof was to obtain sufficient evidence and information in order to prepare an affidavit for purposes of assisting with the application of a restraint order by the Asset Forfeiture Unit (AFU) for Intaka and other identified parties. Our mandate was further extended on 2 July 2010 as previously referred to in paragraph 4.001 of this report. We have completed the said investigation and prepared three (3) x forensic accounting reports for the Northern Cape Department of Health; the status of which is summarised below:

- 1) Issued our report dated 12 October 2010 iro the investigation conducted into the procurement of ten (10) x water purification plants by the Northern Cape

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Department of Health from Intaka in the amount of R42,351,240;

- 2) Issued our report dated 4 November 2010 iro the investigation conducted into the procurement of sixteen (16) x Dialysis machines by the Northern Cape Department of Health from Skyros Health (Pty) Ltd an Intaka related entity in the amount of R4,000,000; and
- 3) Issued our report dated 19 November 2010 iro the procurement of thirty (30) x oxygen plants by the Northern Cape Department of Health from Intaka in the amount of R66,729,078.24.

5.005 I further determined when examining documents seized by the SAPS from Intaka and from the premises of Mr John Block (**John Block**) that Intaka communicated with John Block in respect of municipalities and Intaka products. PwC was not initially mandated to investigate the procurement of goods from Intaka by municipalities although the mandate has now been extended to cover this aspect. My findings into the investigation conducted at the Sol Plaatje Municipality and the procurement of one (1) x Wataka water purification plant are detailed below.

**6.000 Issues addressed in my investigation**

6.001 This report focuses on the order awarded to Intaka for the supply of one (1) x Wataka water purification plant by the Sol Plaatje Municipality (**the Municipality**).

6.002 The report further summarises the Procurement Procedures followed during the awarding of the order in question, where these have been contravened and where collusion has taken place between the Municipality officials, suppliers and other third parties.

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**Report of Trevor White**  
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**C. BASIS OF INVESTIGATION**

**7.000 Execution of fieldwork and gathering of information**

7.001 Members of my staff have assisted me in the execution of fieldwork and gathering of information necessary to compile this report, however, where an opinion is expressed in this report it is my own opinion.

**8.000 Sources documents**

8.001 The information dealt with in this report was obtained from the sources listed below:

- i) Supporting procurement documentation provided by the Municipality.
- ii) Kreditinform Enquiries.
- iii) Payment reports.
- iv) Interviews conducted with Management and staff at the Municipality.
- v) Information received from third parties.
- vi) Interviews conducted with third parties.
- vii) Documents seized by the SAPS from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
- viii) Electronic records seized by the SAPS from Intaka and from premises in the Northern Cape linked to various persons identified in this investigation.
- ix) An affidavit provided by Dr Savoi of Intaka to the SAPS.
- x) Bank records subpoenaed by the SAPS.

**D. DETAILED PROCEDURES AND FINDINGS**

9.000 Prior to discussing the investigations into the water purification plants I deem it necessary to refer to the relevant procurement policy and procedures in place at the Municipality at the time the purchase was made. The detailed procedures and my key findings are addressed thereafter for the investigations conducted into the purchase of the water purification plant by the Municipality from Intaka.

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**Chartered Accountant and Forensic Auditor**

**The State v Gaston Savoi and others**

**Municipal Finance Management Act, Act No 56 of 2003**

**A1**

9.001 The Municipal Finance Management Act, Act No 56 of 2003 (MFMA) was adopted by Parliament, and assented to by the President on 13 February 2004, as published in Government Gazette 26019. The MFMA applies to all municipalities and municipal entities. I wish to refer to relevant sections thereof in respect of the procurement of goods or services as it relates to this investigation. **A1/1**

9.002 The Object of the Act is set out in section 2 of the MFMA and reads as follows: **A1/13**

*"The object of this Act is to secure sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms and standards and other requirements for-*

- (a) Ensuring transparency, accountability and appropriate lines of responsibility in the fiscal and financial affairs of municipalities and municipal entities;*
- (b) The management of their revenues, expenditures, assets and liabilities and the handling of their financial dealings;*
- (c) Budgetary and financial planning processes and the co-ordination of those processes with the processes of organs of state in other spheres of government;*
- (d) Borrowing;*
- (e) The handling of financial problems in municipalities;*
- (f) Supply chain management; and*
- (g) Other financial matters".*

9.003 Section 60 of the Act sets out the responsibilities of Municipal Managers to be accounting officers and reads as follows: **A1/14**

*"The municipal manager of a municipality is the accounting officer of the municipality for the purposes of this Act, and, as accounting officer, must-*

- (a) Exercise the functions and powers assigned to an accounting officer in terms of this Act; and*
- (b) Provide guidance and advice on compliance with this Act to –*



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- (c) *The political structures, political office-bearers and officials of the municipality;  
and*  
(d) *Any municipal entity under the sole or shared control of the municipality.*

- 9.004 Section 111 deals with the implementation of a Supply Chain Management (SCM) Policy and reads as follows: **A1/15**  
*"Each municipality and each municipal entity must have and implement a supply chain management policy which gives effect to the provisions of this part".*
- 9.005 The SCM policy has to comply with the prescribed framework as set out in section 112 of the Act. The entire section is relevant, however, I wish to refer to the following sub sections: **A1/15-16**  
112 (1): *The supply chain management policy of a municipal entity must be fair, equitable, transparent, competitive and cost-effective and comply with a prescribed regulatory framework for municipal supply chain management, which must cover at least the following:*  
1 The range of supply chain management processes that municipalities and municipal entities may use, including tenders, quotations, auctions and other types of competitive bidding.  
112 (2): *The regulatory framework for municipal supply chain management must be fair, equitable, transparent, competitive and cost-effective.*
- Sol Plaatje Municipality Supply Chain Management Policy, adopted by Council on 17 November 2005**
- 9.006 The aforementioned SCM Policy of the Sol Plaatje Municipality was adopted by Council on 17 November 2005. The document sets out the threshold values when procuring goods and services and sets out the processes to be followed through the bidding process. I wish to refer to sections of the Policy relevant to the procurement of goods or services above the value of R200,000 (VAT included): **A2**

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**Report of Trevor White**  
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**5. Subdelegations**

**A2/9-10**

- (1) *The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such subdelegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.*
- (2) *The power to make a final award-*
  - (a) *Above R200 000 (VAT included), must be referred to the bid adjudication committee of which the chief financial officer or a senior manager is a member;*
- (3) *An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph*
- (4) *a written report containing particulars of each final award made by such official or committee during that month, including-*
  - (a) *The amount of the award;*
  - (b) *The name of the person to whom the award was made; and*
  - (c) *The reason why the award was made to that person.*
- (5) *A written report referred to in subparagraph (3) must be submitted-*
  - (a) *To the accounting officer, in the case of an award by-*
  - (b) *The chief financial officer; or*
  - (c) *A bid adjudication committee of which the chief financial officer or a senior manager is a member.*

**19. Competitive bids**

**A2/18**

- (1) *"Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy".*

**22. Public invitation for competitive bids**

**A2/20**

- (1) *"The procedure for the invitation of competitive bids, is as follows:*
  - a) *Any invitation to prospective providers to submit bids must be by means of*

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*a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and*

- b) The information contained in a public advertisement, must include-*
- (i). The closure date of the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2).;*
  - (ii). A statement that bids may only be submitted on the bid documentation provided by the municipality; and*
  - (iii). Date, time and venue of any proposed site meetings or briefing sessions.*
- (2) The accounting officer may determine a closure date for the submission of bids which is less than 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process".*

**35. Deviation from, and ratification of minor breaches of, procurement processes**

**A2/28-29**

*The accounting officer may-*

- (a) Dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only-*
  - (i) "In an emergency;*
  - (ii) If such goods or services are procured or available from a single provider only;*
  - (iii) For the acquisition of special works of art or historical objects where specifications are difficult to compile;*
  - (iv) Acquisition of animals for zoos; or*
  - (v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes".*

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**Department of Health, Province of KwaZulu-Natal, Interim Supply Chain  
Management Delegations, dated February 2006**

**A3**

9.007 Both the MFMA and the Sol Plaatje SCM Policy I referred to herein above are silent on the criteria for urgent or emergency cases. The Department of Health, Province of KwaZulu-Natal, Interim Supply Chain Management Delegations (**SCM Delegations**), dated February 2006 contains the conditions and/or control measures applicable to urgent and emergency cases. The said SCM Delegations are not relevant to this investigation however I wish to refer to the section relevant to "Urgent and Emergency Cases" for ease of reference.

**1. Urgent and Emergency Cases**

*"Cases are defined as urgent or emergency cases when the following criteria have been met:-*

- i) Resulted from natural disaster i.e. beyond human control; and*
- ii) Immediate action is required to avoid a dangerous or life threatening situation, misery or want".*

**Background: Affidavit of Dr Gaston Savoi**

1.008 I attach hereto for ease of reference an affidavit of Dr Gaston Savoi's (Dr Savoi or Savoi) signed and dated 21 August 2008. The affidavit deals primarily with a donation paid by Intaka in February 2007 and two commission payments made in August 2007 that relate to Intaka's business transactions with the KZN Department of Health and KZN Department of LG & TA respectively. The affidavit refers to how he and Intaka were introduced to the KZN Provincial Government; however it does not refer to the Northern Cape Province or business transacted with the Municipality.

**B1**

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**Chartered Accountant and Forensic Auditor**

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**Intaka Investments (Pty) Ltd**

9.009 I determined when investigating an order awarded to Intaka by the KZN Department of Health for the supply of 2 water purification plants, that the registration number recorded on the footer of their quotation dated 2 October 2006 is 2003/021018/07, attached hereto for ease of reference. A Kreditinform enquiry determined that said registration number belongs to Intaka Holdings (Pty) Ltd. The said entity was previously known as Intaka Tech (Pty) Ltd and was first registered on 28/08/2003. The holding company is recorded as "Savoi Family Trust". The Active Principals are Dr G Savoi id 521226 0000 000 appointed on 28/08/2003 and Mr R Savoi id 810212 5000 000 appointed on 21/11/2007. In terms of the footer of the quotation the other 2 directors as at 2 October 2006 were Fernando Praderi and Clement Morris. In terms of the Kreditinform Report these 2 persons resigned as Directors, however the date of resignation is not reflected. It would appear that the entity with registration number 2003/021018/07 was known as Intaka Investments (Pty) Ltd at the date of the quotation and subsequent thereto changed its name to Intaka Tech (Pty) Ltd and then Intaka Holdings (Pty) Ltd.

**B2/1-3**

**B3**

**Intaka Northern Cape**

9.010 I determined that the first 2 water purification plants purchased by the Northern Cape DOH (as discussed in further detail in my report dated 12 October 2010) were awarded to an entity known as Intaka Northern Cape. A Kreditinform Enquiry determined that Intaka Northern Cape (Pty) Ltd with registration number 2005/006456/07 was previously known as Tarree Investments and was registered on 2 March 2005. The Directors appointed effective 2 March 2005 and who are still active principals are: John Fikile Block (**John Block**) id 680210 5802 089 and Gaston Savoi id 521226 0000 000. The current status of this entity is recorded as de-registered.

**B4**



**Report of Trevor White**  
**Chartered Accountant and Forensic Auditor**

**The State v Gaston Savoi and others**

**THE PURCHASE OF ONE (1) X WATER PURIFICATION PLANT FROM INTAKA**

**Order awarded to Intaka and payments made by the Sol Plaatje Municipality**

- 9.011 I requested a list of payments made by the Sol Plaatje Municipality to Intaka and was provided with payment information extracted from the Promun financial system of the Municipality. I identified three (3) x payments made to Intaka during the period 7 April 2006 to 14 May 2007 amounting to R 3,205,575.91 as summarised in the table hereunder. C1

|   | Payment date       | Payment amount ( R ) |
|---|--------------------|----------------------|
| 1 | 07/04/2006         | 2,794,000.00         |
| 2 | 24/10/2006         | 73,575.60            |
| 3 | 14/05/2007         | 338,000.31           |
|   | <b>Total ( R )</b> | <b>3,205,575.91</b>  |

- 9.012 I have been provided with supporting documentation iro the payments made by the Municipality to Intaka and determined that Intaka received payment in the amount of R2,794,000 on 7 April 2006 for the supply of one (1) x Wataka water purification plant to Ritchie, a town near Kimberley in the Northern Cape Province. The other two (2) x payments to Intaka in the amount of R73,575.60 and R338,000.31 respectively were for the supply of chemicals to the Municipality. This report deals only with the procurement of the water purification plant. C2
- 9.013 The Municipality could not provide a copy of the order, delivery note, payment certificate and or any correspondence confirming the date when the Wataka water purification plant had been commissioned. Mr Russel Brooker (**Brooker**) of the Municipality was interviewed and an affidavit was provided by him. He stated that *"the documents could not be traced as these documents are kept for three years only"*. F11
- 9.014 The Municipality provided an e-mail from Fernando Praderi to Tony Cooper titled "Wataka Ritchie" dated 12 April 2006. Praderi thanked Mr Cooper in the e-mail C3

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stating "Thank you so much for receiving us in Kimberley yesterday and driving us to Ritchie in order to coordinate the technical details for the installation and connection of the Wataka 050". Hence, the commissioning of the Wataka water purification plant was commissioned at Ritchie after 12 April 2010 and after Intaka had received the full payment from the Municipality for the Wataka water purification plant in the amount of R2,794,000 on 7 April 2006. This is despite the tender documents making provision for a 10% retention.

D22/24

**Background into obtaining all relevant documentation from the Municipality and from the SAPS**

9.015 I initially examined documents from the SAPS in the Western Cape under "Project X Cross Ref 26/102/2 (17)" being hard copy and electronic records, after they conducted a search of Intaka's premises. I thereafter received and examined documents seized by the SAPS in the Northern Cape, being hard copy and electronic records, after they conducted searches at various business entities and suspected persons premises in the Northern Cape. The SAPS performed a search of the Municipality's premises on 18 November 2010 and provided hard copies of the records seized during the search. All other relevant procurement documentation and other official records from the Municipality relating to the purchase of the water purification plant were then requested. In addition to this I obtained documents and records from: third parties interviewed by SAPS and PwC representatives during the investigation phase; bank records subpoenaed by the SAPS; and records from the Office of the Registrar of Companies and Close Corporations. In addition the SAPS had performed a further search of Intaka's premises on 25 August 2010 and seized additional documents that were examined by me.

**Detailed investigation into all documents received and interviews conducted**

9.016 I received a number of documents from the said sources and compiled a comprehensive list, in order to obtain a clear understanding of the sequence of events in terms of the documents. I deem it necessary to briefly refer to each relevant document and the content of each where applicable. All documents discussed

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hereunder were obtained from the sources listed above, unless otherwise stated.

**1) Fax dated 27 October 2005**

9.017 Included in the documents seized from John Block's residence was a fax dated 27 October 2005 which appears to have come from the ANC office in Kimberley. Page 2 of this fax contains amongst others the name and contact numbers for the Mayor (Patrick Lenyibi) and the Municipal Manager (Frank Mashilo) of the Sol Plaatje municipality. D2/11

**2) Letter from Intaka to Mr Patrick Lenyibi, the former Mayor of Sol Plaatje Municipality, dated 4 November 2005** D1

9.018 The letter from Intaka to Mr Lenyibi (**Lenyibi**), the former Mayor of Sol Plaatje Municipality, titled "Wataka- Portable Water Purification Unit" dated 4 November 2005 was located amongst the Intaka seized records. Dr Savoi provided a brief background of himself and his business to Mr Lenyibi and gave a short introduction of the Wataka water purification plant. The purpose of the letter was to introduce Intaka to Lenyibi in order to promote his business. I located a similar letter amongst Intakas records dated 4 November addressed to Mr Frank Mashilo (**Mashilo**), the former Municipal Manager of the Municipality. D1/1-2  
D1/3-4

9.019 Dr Savoi states in paragraph 2 of the said letters that *"The company is called Intaka. I have been referred to you by Mr John Block, he is my local partner in the Northern Cape through Intaka NC Pty."*

9.020 I have identified the following documents seized by the SAPS that further illustrate the relationship between John Block and Dr Savoi and Intaka.

- 1) An e-mail from Fernando Praderi to [jfblock@mweb.co.za](mailto:jfblock@mweb.co.za) dated 19 May 2005 titled "Wataka Northern Cape" located in the electronic records seized by the SAPS from John Block. The e-mail commences with "Dear John" and is dealing with water samples obtained by John Block. It is evident from the D2/1

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- content of the e-mail that the water samples obtained have already been treated by the municipalities and the writer has requested John Block to obtain raw water samples of each municipality to *"monitor the whole process avoiding deviations on the process and therefore on the final results. That is why it is so important to have raw water samples to be treated with our Wataka by the municipalities"*.
- 2) An e-mail from Intaka to [jfblock@mweb.co.za](mailto:jfblock@mweb.co.za) titled "Water samples analysis" dated 3 August 2005 located in the Intaka records seized by the SAPS. The e-mail commences with "Dear Mr Block" and deals with the procedure of how to obtain water samples from all municipalities where Intaka has committed to solve the problem of "quantity and quality of drinkable water supply by installing a Wataka". D2/2
  - 3) A letter from Dr Savoi to John Block titled "Wataka Official Launching" dated 11 August 2005 located in the Intaka records seized by the SAPS. The letter deals with the official launching of the Wataka model 050 that took place at the Overberg Water Rural Water Supply Scheme in Heidelberg, Western Cape on 8 August 2005. The writer further confirms that the launch was attended by various municipalities and districts. D2/3
  - 4) A fax from John Block marked "Attention Alicia" located in the Intaka records seized by the SAPS. The fax contain various names and contact numbers of Mayors and Municipal Managers for various regions including the names and contact numbers for Sol Plaatje Municipality situated in the Frances Baard Region in the Northern Cape. (Only the details for Sol Plaatje and Dikgatlong appear on this schedule and these are the only two that were not crossed out on the fax referred to in paragraph 9.017 above for the Frances Baard Region) D2/4-8
  - 5) An e-mail from John Block to Alicia Marcos dated 11 November 2005 located in the Intaka records seized by the SAPS. John Block requested Alicia Marcos to forward the contact details of Lenyibi and Mashilo to "Fernando". D2/7
  - 6) An e-mail from John Block to Dr Savoi dated 11 November 2005 located in the Intaka records seized by the SAPS. The content of the e-mail is self-explanatory and I am not going to repeat the entire content thereof. John Block refers to the details of the Mayors and Managers who visited D2/11
  - D2/9
  - D2/10

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Heidelberg and he continues to say the following: *"They are very impressed with the quality and price of the Wataka and they committed themselves to speed up the decision making process in their councils.*

*I agree with the price of R2,694,000 per unit and I think we should proceed with the offer to them as speedily as possible. I will be in touch with them on Monday and Tuesday to finalise their decision".*

**3) Letter from Intaka to Mashilo of Sol Plaatje Municipality dated 14 November 2005**

- 9.021 Intaka sent a letter titled "Ref: Wataka – Portable Water Purification Unit Model 050" to Mashilo dated 14 November 2005. Dr Savoi referred to the visit to see the Wataka unit which is operating at Heidelberg for Overberg Water. He provided an offer for the Wataka model 050 and gave a description of the unit, price schedule, payment terms and optional items available if required. **D3/1-2**
- 9.022 Intaka quoted an amount of R2,694,000 per unit including VAT, freight and installation. The "offer" was valid until 25 November 2005. I have also located a copy of the said letter in the Intaka records seized by the SAPS that was faxed on 14 November 2005. **D3/3-5**
- 9.023 I have located an e-mail from Dr Savoi to John Block dated 14 November 2005 in the electronic records seized by the SAPS from John Block. Dr Savoi refers to the fax he sent to Mashilo and enclosed a copy of the said letter for his information. **D3/6-8**
- 9.024 I have identified the following documents in the records seized by the SAPS that further illustrate the communication between the Municipality and John Block and Intaka prior to the implementation of a competitive bidding process as set out in the Municipality's SCM Policy I previously referred to. **D4/1-2**
- 1) A letter from Intaka to Lenyibi dated 12 December 2005 located in the Intaka records seized by the SAPS. Praderi thanked Lenyibi for the interest he showed in the Wataka model and invited him and his team to visit the Wataka



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unit that had been transported from Heidelberg to Franskraal. He referred to a telephonic discussion with Lenyibi and states that *"Monday 19 December is a suitable day for us to organise that one of our representatives meets you there"*.

- 2) An e-mail from Praderi to John Block titled "Northern Cape Municipalities" dated 5 January 2006 located in the electronic records seized by the SAPS from John Block. Praderi has requested John Block to inform them when he was expecting to receive purchase orders for the Wataka plants from the Northern Cape Municipalities. He also raised the issue of requested water samples. D4/3
  
- 3) An e-mail from Dr Savoi to [jfblock@mwweb.co.za](mailto:jfblock@mwweb.co.za) titled "Wataka" dated 24 January 2006 located in the Intaka records seized by the SAPS. The e-mail commences with "Dear John " and deals with some of the issues that had to be discussed at the Intaka Board meeting. Dr Savoi requested feedback or comments from the municipalities who had visited the Heidelberg and Franskraal plants and to whom Intaka had sent quotations for the Wataka units. Mashilo and Lenyibi of the Sol Plaatje Municipality were included under paragraph (m) of the list. D4/4
  
- 4) A letter from Intaka to Lenyibi dated 26 January 2006 located in the Intaka records seized by the SAPS. The letter is signed by Dr Savoi and he quoted an amount of R2,794,000 for the supply of one (1) x Wataka Transportable Water Purifying Plant, model 50. The amount included VAT, freight and installation work. He concluded as follows: *The installation will be completed upon reception (sic) of payment. Kindly send the formal purchase order by fax to our offices (021 7021243), and the original document by courier to Intaka Investments Pty Ltd  
No.1 Fairhill Park. Bell Crescent  
Westlake Business Park  
Tokai*: D4/5
  
- A proof of fax transmission report dated 27 January 2006 attached to the said letter contain the name *"Mayor Lenyibi"* written next to fax number 0538306268, and the name *"Mr Mashilo/Municipal Manager"* written next to fax number 0538331005. This indicates that the said letter was faxed to both D4/6

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Lenyibi and Mashilo of the Municipality on 27 January 2006.

- 5) An e-mail from John Block to Dr Savoi dated 13 February 2006 located in the Intaka records seized by the SAPS. He indicated to Dr Savoi the following: "I will follow up on the matters this week and give you feedback". D4/7

- 6) An e-mail from John Block to Dr Savoi titled "Progress Report" dated 17 February 2006 located in the Intaka records seized by the SAPS. I have also D4/8

located a copy of the said e-mail in the electronic records seized by the SAPS from John Block. He commences: "*The blessings of my birthday are indeed paying off. The younger I get the more Watakas we seem to be getting. I need a birthday every month*", implying the sale of wataka's is going well. He confirms that Sol Plaatje Municipality will need a Wataka for a town called Ritchie as soon as possible. He continued as follows: D4/9

*"They are ready and they have the money to pay for the Wataka. Please send the request for the order to the following people:*

*Mr Frank Mashilo*

*Municipal Manager*

*1<sup>st</sup> Floor Civic Centre*

*Kimberley, 8300*

*Fax number: 053-8306268*

*Mr Tony Cooper*

*City Engineer*

*4<sup>th</sup> Floor Civic Centre*

*Kimberley, 8300*

*Fax number: 053-8306268".*

He concluded as follows: "*I am still on the pulse of Upington Municipality, I will have feedback by next week. I feel like El Presidente when he commands his people. Patria o muerte! Venceremos!*"

- 4) Memorandum from the Office of the Executive Mayor to Mr Cooper of the Municipality dated 17 February 2006

- 9.025 On 17 February 2006 the Mayor sent a memo to Mr Cooper (Cooper), City Engineer of the Municipality titled "Proposal- Transportable Water Purification Plant" dated D5

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17 February 2006. (I determined that Mr Tony Cooper is now deceased). The Mayor attached the letter from Intaka dated 26 January 2006 as discussed earlier in paragraph 9.022 above to the said memo and requested Cooper to liaise directly with Intaka and to give feedback to his office. I have not been able to determine why the quotation was forwarded to Mayor Lenyibi nor have I been provided with a request by Lenyibi to Intaka for the quotation.

D4/5

**5) Fax from Dr Savoi to Cooper titled "Wataka Unit Model 50" dated 21 February 2006**

- 9.026 On 21 February 2006 Dr Savoi sent a fax to Cooper with the following documents: D6/1
- i. A letter from Intaka to Mashilo dated 20 February 2006. The letter refers to a telephone conversation between the writer and Mashilo; the content thereof is self-explanatory. Paragraph 3 of the letter reads as follows: *"We understand that you require this water solution and we, as Intaka Investments, would like to provide potable water systems to our communities. We trust that this will be the beginning of a long and fruitful relationship"*. D6/2
  - ii. A copy of an Intaka Sales Order SO 0001 for the supply of a "Wataka Unit Model 50 Portable Water Treatment Plant" in the amount of R2,794,000 (including VAT) dated 20 February 2006. The Sales Order is addressed for the attention of Mashilo and Cooper of the Municipality. The Sales Order indicates that delivery and installation can be made *"immediately against reception (sic) of full payment"*. The Sales Order set out the Payment terms as *"70% of the amount cash in advance"*, and *"30% of the amount cash against invoice presentation"*. D6/3
- 9.027 An e-mail from Alicia Marcos of Intaka to John Block dated 21 February 2006 located in the electronic records seized by the SAPS from John Block indicates that the said letter to Mashilo and the Intaka Sales Order was also forwarded to John Block. I wish to point out that the Intaka Sales Order No SO 0001 was issued to the Municipality prior to the implementation of a competitive bidding process, to be discussed later in more detail in this report. D6/4-6

References in the margin refer to  
 appendix numbers

PricewaterhouseCoopers

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- 9.028 Ms Johanna van Niekerk (van Niekerk), Integrated Development Planning Department of the Municipality was interviewed and an affidavit was provided by her. She was the former Personal Assistant (PA) of Cooper. She stated that the name "MR AG Cooper" that is appearing on the top left hand side of the letter was written by Mrs L Coetzee, the PA of the former Municipal Manager. Van Niekerk confirmed that she received the letter whereafter she handed it over to Cooper for his attention in the matter. F3  
D6/2
- 6) Fax from Cooper to Dr Savoi titled "Wataka Portable Water Plant" dated 23 February 2006**
- 9.029 On 23 February 2006 Cooper sent a fax to Dr Savoi wherein he requested Intaka to provide him with the following information: D7  
*"Kindly advise technical specifications of Wataka Unit Model 050 Including Expected Daily Production, Power Requirements etc. to enable me to assess suitability of plant."*
- 7) Fax from Praderi of Intaka to Mr Cooper titled "Wataka Unit Model 050" dated 23 February 2006**
- 9.030 On 23 February 2006 Praderi sent a fax to Cooper in reply to his request dated 23 February 2006 and provided the requested information. He concluded by stating the following: *"The plant is ready for installation as soon as we receive the order"*. D8
- 9.031 An e-mail from Dr Savoi to Praderi titled "Results of Trips- Confidential" dated 28 February 2006 was located in the electronic records seized by the SAPS from Intaka. Dr Savoi discussed the results of various trips in the said e-mail and states under the paragraph "23 February Kimberley" the following: *"We concluded the sale of a Wataka model 050 for R2,794,000, including VAT, freight, installation for Ritchie town. The plant is ready for installation"*. D9

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**8) Memorandum from Cooper to the Mayor titled "Proposal: Transportable Water Purifying Plant" dated 3 March 2006**

- 9.032 The Municipality provided a copy of a memorandum sent to the Mayor titled "Proposal: Transportable Water Purifying Plant" dated 3 March 2006. The said memorandum was copied to Financial Services and was in reply to the memorandum from the Office of the Executive Mayor discussed in paragraph 9.025 above. The memorandum reads as follows:
- D10  
D5  
D10

*"According to the report of Africon regarding extensions to Rietvale and Motswedimosa the capacity of the water plant at Richie is sufficient for present requirements. Problems have been experienced with the availability of raw water from the Riet River as well as operational problems".*

*The required capacity for proposed extensions to Rietvale and Motswedimosa is 1.8Ml/day which is in excess of the capacity of 1Ml/day for the Watako plant. The cost of R2 794 000 appears excessive for the capacity of the plant and excludes civil works and extensions to the raw water capacity".*

*The estimated cost of R4.85 million for extensions to the works includes for extensions to raw water extraction as well as for repair work to the existing plant including consultants' fees.*

*The purpose of the plant would serve no purpose at this stage without increasing the capacity of raw water provision".*

- 9.033 The memorandum contain a handwritten note "See attached report dd June 2006" which will be dealt with later in this report when I discuss the Africon report issued in June 2006.
- D29
- 9.034 Van Niekerk stated that she typed the memorandum to the Mayor as instructed by Cooper. She confirmed that she wrote the note " See attached report dd June 2006" and confirmed that she referred to the feasibility study that was performed by Africon
- F3/2  
D29

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as contained in their report dated June 2006. She recalls that Cooper was not in favour of the purchasing of the water purification plant and hence the reason why he sent the memorandum to the Mayor dated 3 March 2006 which I referred to herein above. D10

9.035 Mr Kgosiabonya Bogacwi (Bogacwi), former Executive Director, Infrastructure and Services Department of the Municipality was interviewed and an affidavit was provided by him. He reported to Mashilo during 2006 and stated that his office was situated on the 4<sup>th</sup> floor in the new wing of the Municipality building. He confirmed that Cooper reported to him and his office was located on the second floor in the old municipal building. The offices of Mashilo and Mr Lenyibi, the former Mayor of the Municipality were situated on the first floor in the old municipal building where Cooper was sitting. Although Cooper was reporting to Bogacwi he also dealt with Mashilo as the Municipal Manager and Bogacwi stated that he was often not aware of the discussions between Cooper, Mashilo and the former Mayor. F2

9.036 Bogacwi was amongst other services responsible for water and sanitation services and confirmed that they had experienced water shortages in the Ritchie area during 2006 as a result of the limited of raw water allocated to Ritchie at the time. He stated further that he had no knowledge of the memorandum that Cooper sent to the Mayor dated 3 March 2006 and confirmed that it was signed by Cooper on his behalf. He agrees with the contents of the memorandum that *"the water shortages in the Ritchie area were as a result of the capacity of the raw water provision"* and that the Wataka water purification plant was not required. F2/2

9.037 Stafford Coetzee (Coetzee) provided an affidavit to the SAPS attached hereto for ease of reference. He is employed as Head: Water Purification Works at the Municipality. He accompanied Mr Dirk Karsens and another two (2) x colleagues during early 2006 on a visit to the Wataka water purification plant that is situated at Heidelberg in the Western Cape (This was a separate visit to Heidelberg and after the visit by the Mayors and Managers referred to by Intaka during November 2006). He stated that Mr Karstens was instructed by Mr Lenyibi, the former Mayor of the Municipality, to visit the plant and to report back to Cooper on the feasibility of the F4  
D2/10

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unit. They had to report back to Cooper on the technical aspects of the Wataka water purification plant and if it would be feasible for the Municipality to purchase the unit. He confirmed that they visited the water plant as instructed and interviewed the plant operator during which time they determined that the Wataka water purification plant could only supply up to 1 mega litre of water per day appose to the 162 mega litre of water per day required by Kimberley. Hence, they reported to Cooper that the plant was not suitable for Kimberley whereafter Cooper agreed to draft a report based on their recommendation that the purchase of the water plant was not suitable for Kimberley.

9.038 Willem Swiegers (**Swiegers**) provided an affidavit to the SAPS attached hereto for ease of reference. He is employed in the Contract Administration Division and was employed at the Municipality during 2006. He was not personally involved in the procurement process when the Municipality purchased the Wataka water purification plant. His involvement was limited to a conversation he had with Cooper regarding the purchasing of the Wataka water purification plant. He stated that "*Cooper het my ingelig dat hy nie tevrede was met die besluit om die filter aan te koop nie, omdat die probleem in werklikheid gele het by ons onttrekkings kapasiteit en nie by die suiwerings kapasiteit nie. Hy het ook genoem dat hy n verslag daaroor die aangeleentheid geskryf het maar dat hy onder druk was om die verslag te verander. Dit het natuurlik druk op sy integriteit as profesionele Ingenieur geplaas wat hom ongelukkig gemaak het en dis dalk die rede waarom hy dit vir my genoem het*" and hence confirms the concerns that were raised by Cooper in the memorandum he sent to the Mayor dated 3 March 2006.

F5

D10

**9) Fax from Mr KA Bogacwi of the Municipality to Intaka dated 8 March 2006**

9.039 A fax dated 8 March 2006 was sent from Bogacwi of the Municipality to Intaka wherein he requested Intaka to supply a "price quotation for 2 x Wataka-Model 050". This request was sent to Intaka despite Cooper's memorandum I referred to herein above wherein he concluded that "*The purpose of the plant would serve no purpose at this stage without increasing the capacity of raw water provision*". Cooper was

D11

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working with Bogacwi at the time and reported to him. Bogacwi requested a further price quotation for two (2) x Wataka units after Cooper had advised the Mayor that the purchase of the plant would serve no purpose due to the capacity of the raw water provision, only five (5) x days earlier.

D10

9.040 Bogacwi stated that Mashilo came to him prior to when the tender for the water purification plant was advertised and confirmed that he had discussions with a company called Intaka who could supply a Wataka water purification plant that will solve the water problem in the Ritchie area. He stated that Mashilo said to him that they must consider the purchase of the water purification plant and could deviate from the procurement process because the water purification plant was available from a single provider only and that he (Mashilo) as accounting officer would authorise the deviation from the procurement process in terms of the Municipality's SCM Policy. This instruction was not given to him in writing and Mashilo provided him with Intaka's contact details. Bogacwi then contacted Intaka and sent the fax dated 8 March 2006 wherein he requested a "price quotation for 2 x Wataka-Model 050" units in order to determine the cost of the Wataka water purification unit. He cannot recall why he requested a price quotation for two (2) x Wataka units.

F2/2-3

**10) Letter from Intaka to Bogacwi titled "Wataka Potable Water Treatment Plant" dated 8 March 2006**

9.041 A letter titled "Wataka Potable Water Treatment Plant" sent to Bogacwi dated 8 March 2006 was located in the electronic records seized by the SAPS from Intaka. Dr Savoi referred to the request by Bogacwi for a quotation of two (2) x Wataka Potable Water Treatment Plants. He attached a quotation to the said letter; Intaka quoted an amount of R2,794,000 (including VAT) per Wataka model 050. The price quoted on the two (2) x Wataka units is the same price per unit as previously quoted on by Intaka in the letter dated 26 January 2006 referred to in paragraph 9.022 above.

D12

D4/5

**11) Letter from Mr Mashilo to Bogacwi titled "Procurement: Transportable Water Purifying Plant" dated 9 March 2006**

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- 9.042 A letter dated 9 March 2006 was sent to Bogacwi from Mashilo, the Municipal Manager of the Municipality. I will not repeat the entire document but wish to refer to specific sections thereof. D13
- i. In paragraph 1 the writer states the following: *"In terms of the Supply Chain Management Policy when a product or service of not more than R10m has to be procured, the Accounting Officer has powers to decide on a time period less than the 14 days for which an advert for a bid needs to be left open for responses"*.
  - ii. The first part of paragraph 2 reads as follows: *"It has come to the attention of my office that major problems are being experienced in regard to water supply in certain locations in the townships. These water shortages have a negative impact on providing basic necessity to the indigents communities. Sol Plaatje Municipality wants to mitigate the inhuman conditions that the indigent citizens occasional endure due to water supply shortages"*.
  - iii. Paragraph 3 reads as follows: *"It can, therefore, not be overemphasized that there is an urgent need for the municipality to have a mobile water purification relief plant, that can suite our needs."*
  - iv. The writer make the following recommendation: *"Due to the urgency of the need, and the nature of the basic service of which the indigents communities are occasionally denied, I hereto attach my input towards the specifications a plant to relief this urgent need for the indigents"*.
  - v. The writer concludes by stating the following: *"The urgency requires that we do not delay this requisition on the basis of awaiting new delegations and bid communities review. You are authorised to minimize the period for which the tender advert is left open to 4 (four) days, in consideration of the urgency of this matter"*.
- 9.043 Van Niekerk stated that Bogacwi instructed Cooper to procure for the services through the SCM bidding process and confirmed that Mashilo had authorised the time period for the closure of the tender to be reduced to four (4) x days. She further stated that it placed immense pressure on Cooper to draft a tender document within such a short period of time. F3/2

Handwritten signature and initials, including a large 'M' and a stylized 'J' or 'S'.

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- 9.044 Bogacwi stated that he reported to Mashilo that the cost per Wataka unit was too high and that they had to follow a competitive bidding process for procurement above a transaction value of R200,000 (including VAT). He confirmed that they could not follow the deviation from the tender procedure as initially suggested by Mashilo who then sent him the memorandum dated 9 March 2006 in order to procure for the required services. Bogacwi confirmed that he handed the memorandum over to Cooper and requested him to initiate the tender process. He stated that Cooper was the person responsible for the project thereafter and had to ensure that the specifications were drawn up and communicated through to the Communication Manager to place an advertisement for purposes of the tender. F2/3  
D12
- 12) Memorandum from Bogacwi to the Communications Manager titled "Advert of the Wataka Portable Water Treatment Plant" dated 13 March 2006**
- 9.045 A memorandum dated 13 March 2006 was sent to the Communications Manager from Bogacwi titled "Advert of the Wataka Portable Water Treatment Plant". He stated in the memorandum that the advert must be placed before 11:00 am on 13 March 2006 and had to run for 4 days. Attached to the memorandum is an "Invitation to bid" document that sets out the details of the bids that are urgently invited. D14
- 9.046 The Invitation to bid document reflects "Tony Cooper" as the contact person and sets out the conditions that the bids had to be complied with.
- 9.047 Sello Matsie (Matsie) provided an affidavit to the SAPS attached hereto for ease of reference. He stated that he is employed at the Municipality and was employed as the Communication Manager during 2006. He confirmed that he received the memorandum from Bogacwi to place the said advert and stated *"The strange fact about the placement of this advert is that we do not normally place Tender adverts. This is normally done by Supply Chain Management"*. F6



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- 9.048 Bogacwi confirmed that he signed the memorandum to the Communications Manager titled "Advert of the Wataka Portable Water Treatment Plant" dated 13 March 2006 and confirmed that he can recall that Mashilo had authorised to minimize the period for which the tender advert was left open to four (4) x days "*in consideration of the urgency of the matter*" as a result of problems with regard to water supply in certain locations. **F2/3**

**13) Memorandum from Bogacwi to the Communications Manager titled  
"Advert of the Wataka Portable Water Treatment Plant" dated 15 March  
2006**

- 9.049 A memorandum dated 15 March 2006 from Bogacwi was sent to the Communications Manager titled "Advert of the Wataka Portable Water Treatment Plant". He attached a letter to the said memorandum that sets out the details of the advertisement that had to be placed in the Diamond Fields Advertiser (DFA) and "Die Volksblad". **D15**

- 9.050 The letter reflected that bids had to be placed in the Bid Office, First Floor, New Complex, Civic Offices not later than 11:00 on Monday, 3 April 2006.

- 9.051 Matsie confirmed that he received the memorandum dated 15 March 2006 and stated that it was for the placement of the same advertisement he referred to in the memorandum dated 13 March 2006 and confirmed that the advertisement was placed in the DFA on 17 March 2006 and on 18 March 2006 in "Die Volksblad". **F6**

- 9.052 Bogacwi confirmed that the memorandum to the Communications Manager dated 15 March 2006 was signed by Cooper and the purpose thereof was to place the advertisement of the tender in the Diamond Fields Advertiser and "Die Volksblad". **F2/4**

**14) Memorandum from J van Niekerk of the Municipality to the Office of  
"Gemeenskap en Sosiale Ontwikkelingsdienste" dated 17 March 2006**

- 9.053 A memorandum dated 17 March 2006 was sent from van Niekerk to the office of **D16**

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"Gemeenskap en Sosiale Ontwikkelingsdienste". She confirmed that the advertisement for the supply of the "Mobile Emergency Water Plant and supply for indigents" was placed in the DFA on 17 March 2006 and would appear in "Die Volksblad" on 18 March 2006. The closing date for the tender was 3 April 2006 at 11:00. She had requested the office of "Gemeenskap en Sosiale Ontwikkelingsdienste" to make the necessary arrangements for the opening of the tender.

9.054 Bogacwi confirmed that the memorandum dated 17 March 2006 was also signed by Cooper and the purpose thereof was to inform the office of the closing date, being 3 April 2006. F2/4

**15) A copy of an advertisement: Sol Plaatje Municipality, Mobile Emergency Water Purification and Supply for Indigents**

9.055 A copy of the advertisement in both the DFA and "Die Volksblad" for the supply of a "Mobile Emergency Water Purification Plant" refers to Contract CE/T2/06. The advertisement reflects amongst other information the conditions that bids had to comply with. One of the conditions was that Bids had to be submitted not later than "11:00 on Monday, 3 April 2006". D17/1-2

9.056 I have identified the following documents in the records seized by the SAPS that further illustrates that Intaka had prior knowledge of the fact that the Municipality would advertise the tender. It further illustrates that Intaka and John Block had a relationship with the Municipality that extended beyond a client/supplier relationship to the detriment of the Municipality and other potential bidders.

1) An e-mail from Dr Savoi to Praderi of Intaka titled "Ritchie" dated 16 March 2006 located in the electronic records seized by the SAPS from Intaka. The e-mail reads as follows: *"Tomorrow the request for 2 water treatment plants will be published mentioning Wataka specifications. Mr Block will provide us with copy of this publication in order for us to quote again. In our quote we must mention that the Wataka is patented. We need to quote until Monday of next* D18/1

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*week and the matter will be concluded by Friday 24<sup>th</sup>*

- 2) An e-mail from Intaka to John Block titled "Wataka tender-Sol Plaatje" dated 17 March 2006 located in the electronic records seized by the SAPS from John Block. The e-mail reads as follows: *"Thank you for your fax of today (17/03/06). We are astonished to see that a two- week period (until April 3) has been given until the closing of the tender, instead of the four days you mentioned, and furthermore to find that there is no mention of our specs at all in published the text. We need to know as soon as possible if we should quote for 1 or 2 Wataka Plants.* D18/2
- 3) An e-mail from Intaka to John Block titled "Sol Plaatje Tender" dated 17 March 2006 located in the electronic records seized by the SAPS from John Block and in the records of Intaka. Dr Savoi refers to the pages of the Sol Plaatje Tender that was faxed to him and he requested John Block to collect the bid documents from the office of the City Engineer in Kimberley. D18/3-7
- 4) An e-mail from Dr Savoi to Praderi titled "Tender for Ritchie" dated 22 March 2006 located in the electronic records seized by the SAPS from Intaka. The e-mail reads as follows: *"Mr John Block will send by courier all the documentation related to the tender for Ritchie. As soon as we have the documents we have to prepare the tender urgently. Laubscher- Please check that Intaka has all the documentation requested for the tender. I suggest that we include a copy of the Wataka patent in the documentation to be submitted".* D18/8

**16) Memorandum from Bogacwi to the Communications Manager titled "Advert of the Wataka Protatable Water Treatment Plant" dated 22 March 2006**

- 9.057 A memorandum dated 22 March 2006 was sent from Bogacwi to the Communications Manager. He refers to the advertisement to be placed in the DFA and "Die Volksblad" and attached a document titled "Contract CE/T2/06 Mobile Emergency Water Purification Plant and Supply for Indigents" to the said memorandum for the purposes of placing another advertisement. The document attached to the memorandum reads as follows and is in bold: **"Please note that the** D19

References in the margin refer to  
 appendix numbers

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**Closing Date for Bids for the above-mentioned contract which was advertised on Friday, 17 March and Monday, 20 March 2006 has been changed from Monday, 3 April 2006 to Friday, 24 March 2006 at 11:00**

- 9.058 Matsie confirmed that he received the memorandum dated 22 March 2006 from Bogacwi in order to advertise the new closing date of the tender. He stated that another advertisement was not placed for reasons unknown to him. F6
- 9.059 Van Niekerk stated that the closure date for the submission of bids in the case of transactions less than R10m is normally a period of fourteen (14) x days and hence the reason why the Communications Department had advertised the closing date as Monday, 3 April 2006. This was two (2) x weeks (14 x days) after the tender was advertised and not four (4) x days as instructed by Mashilo. She recall that Cooper was contacted thereafter by Bogacwi and was placed under immense pressure to immediately rectify the situation and to ensure that the tender had been closed within four (4) days after it had been advertised as instructed by Mashilo. She then prepared the document titled "Contract CE/T2/06 Mobile Emergency Water Purification Plant and Supply for Indigents". F3/3-4 D19A/2
- 17) Memorandum from Bogacwi to the Office of "Gemeenskap en Sosiale Ontwikkelingsdienste" dated 22 March 2006**
- 9.060 A memorandum dated 22 March 2006 was sent from Bogacwi to the office of "Gemeenskap en Sosiale Ontwikkelingsdienste". He refers to the memorandum dated 17 March 2006 and confirmed that the closing date for the said tender had been changed from Monday, 3 April 2006 to Friday, 24 March 2006. D19A
- 9.061 Van Niekerk confirmed that she prepared the memorandum to the "Gemeenskap en Sosiale Ontwikkelingsdienste" dated 22 March 2006 and confirmed that the closing date of the tender had been changed from Monday, 3 April 2006 to Friday, 24 March 2006. F3/3
- 9.062 Bogacwi stated that the purpose of the memorandum was to inform the office that the F2/4

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closing date for the tender was changed from 3 April 2006 to Friday 24 March 2006. He stated that he was not personally involved in this process but can recall that the tender was not advertised with a tender closing date of four (4) x days as authorised by Mashilo and had to be rectified.

**18) Memorandum from Bogacwi to the Municipal Manager titled "Delays caused by Communication Unit" dated 23 March 2006**

9.063 A memorandum dated 23 March 2006 was sent from Bogacwi to the Municipal Manager titled "Delays caused by Communications Unit". The said memorandum reads as follows: *"The delays of the procurement of the Wataka 050 Model Portable Water Treatment Plant is being caused by the Communication Unit's inability to meet deadlines". The Communications Unit has failed to place adverts on time, I do not have authority over the Communication Unit. I hereby humbly request your prompt intervention*". D19B

**19) Memorandum from Bogacwi to the Acting Executive Director Corporate Services titled "Complain on failure to reach deadline" dated 23 March 2006**

9.064 A memorandum dated 23 March 2006 was sent from Bogacwi to the Acting Executive Director Corporate services titled "Complain on failure to reach deadline". The memorandum reads as follows: *"The procurement of the Wataka 050 Model Portable Water Treatment Plant was authorised by the Municipal Manager on 13 March 2006. Communication was requested to advertise it on 14 March 2006.*

*Communalisations was requested that the closing date must be within 4 day's because of the urgency of the matter. Instead the advert was only placed on 17 March 2006 and the closing date extended beyond 4 days.*

*Communications was subsequently asked to put a corrective advert on 22 March 2006 for the 23 March 2006. It has not been done.*

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*Because of the ineffectiveness and inefficiencies of the Communication Unit the Directorate Infrastructure Services is unable to discharge its responsibilities timeously.*

*I request your intervention on the matter."*

**20) Sol Plaatje Municipality: Tender document for the Delivery and Commissioning of a Water Treatment Plant with contract number CE/T2/06**

- 9.065 The tender document was prepared by the Infrastructure and Services Department of the Municipality for purposes of completion by the service providers who intended to bid for the said tender. The tender document contains the following annexures: **D20**
- i. Conditions of Contract;
  - ii. General Conditions of Contract;
  - iii. Specifications;
  - iv. Annexure "A" – Alterations to Bid;
  - v. Annexure "B" – Special Conditions of Contract;
  - vi. Annexure "C" – Details of previous experience;
  - vii. Schedule of Quantities;
  - viii. Daywork Schedule;
  - ix. Form of Bid; and
  - x. Form of Agreement.
- 9.066 The closing date "Monday, 3 April 2006" on the second page of the tender document is crossed out and the date "Friday 24/03/06" is written on the document. The closing date "Monday, 3 April 2006" that is appearing on the Conditions of Tendering document is also crossed out and the date "Friday 24/03/06" is written on the document. **D20/2**  
**D20/4**
- 9.067 A document titled "Contract CE/T2/06 Mobile Emergency Water Purification Plant and Supply for Indigents" attached to the back of the tender document reads as **D20/22**

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follows and is in bold: ***"Please note that the Closing Date for Bids for the above-mentioned contract which was advertised on Friday, 17 March and Monday, 20 March 2006 has been changed from Monday, 3 April 2006 to Friday, 24 March 2006 at 11:00"***

9.068 Van Niekerk stated that Cooper was placed under immense pressure to draft the tender document within a short period of time and confirmed that she typed the bid document for tender number CE/T2/06. She prepared the document titled "Contract CE/T2/06 Mobile Emergency Water Purification Plant and Supply for Indigents" and attached it to the back of each tender document that reflects *"that the closing date for bids for the above-mentioned contract which was advertised on Friday, 17 March and Monday, 20 March 2006 has been changed from Monday, 3 April 2006 to Friday, 24 March 2006 at 11:00"*. She also crossed out the date "Monday, 3 April 2006 that is appearing on the second page of the tender document and on the Conditions of Tendering page of the tender document and wrote the date "Friday 24/03/06" on the document.

**F3/3-4**

**21) Tender Deposit Register in respect of Tender no CE/T2/06: Mobile Emergency Water Purification and Supply for Indigents**

9.069 The Tender Deposit Register in respect of Tender No CE/T2/06: Mobile Emergency Water Purification and Supply for Indigents reflects only one undated entry from Intaka as contained in the table hereunder. Hence, Intaka was the only supplier who paid a deposit in the amount of R100 for a bid document.

**D21**

| NAME   | TELEPHONE NUMBER | ADDRESS                           | DEPOSIT R100 |
|--------|------------------|-----------------------------------|--------------|
| Wataka | 0722513859       | 10 Golden Gate, Carters Glen, Kby | R100 kontant |

**22) Intaka Investments (Pty) Ltd Bid in respect of Tender no CE/T2/06 dated 24 March 2006**

References in the margin refer to appendix numbers

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- 9.070 I shall briefly refer to the relevant parts of Intaka's bid: D22
- 1) A Sol Plaatje Municipality stamp dated 24 March 2006 appears on the envelope that contains Intaka's Bid document and serves to confirm that the bid document was received by the Municipality and opened on the said day. D22/1
  - 2) Intaka submitted their bid under the signature of Fernando Praderi as their representative on 24 March 2006. D22/15 and 23
  - 3) Intaka indicated that they would be able to deliver a Wataka unit to the site within five (5) x days of the tender being awarded for the amount of R2,794,000 (including VAT). D22/4
  - 4) In paragraph 2 Intaka has referred to their product specifications for the Wataka Unit model 050 and states that *"The Wataka unit can produce up to 1,000,000 litres of potable water per day, working 20 hours/day"* as set out in the tender advert. The last paragraph under the heading "Product Specifications" reads as follows: *"Knowing that the Municipality has a consumption of approximately 1,800,000 litres of drinking water per day, we consider that 2 Wataka Units model 050 would be able to supply for the needs of the area. Given the case that 2 units were required, the costs of supply, delivery installation and commissioning of water (as specified in page 11.2 of the tender's documents) will not be duplicated"*. D22/5
  - 5) The conditions of tendering contain the following in point 3 *"All bids are to be accompanied by a bank guaranteed cheque of R200.00 which the Municipality may retain if the bid is withdrawn after the bid has been awarded by the municipality. The deposits of unsuccessful bidders shall be returned when they are informed that their bid was not successful."* D22/13
  - 6) The schedule of quantities as completed by Intaka allocates R80 000 to "Supply, delivery, installation and commissioning of water" and R40 000 to "Supply, delivery and installation of raw water pump complete." D22/20
  - 7) The percentage retention is set at 10%. D22/24

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**23) Copy of Intake Investments (Pty) Ltd Bid in respect of Tender No  
CE/T2/06**

- 9.071 An undated signed copy of the Intaka Bid for the abovementioned tender was seized by SAPS from the residence of John Block. **D22A**

**24) Memorandum from Bogacwi to Office of the Executive Mayor titled  
"Proposal Transportable Water Purifying Plant" dated 4 April 2006**

- 9.072 A memorandum dated 4 April 2006 was from Bogacwi to the office of the Executive Mayor wherein he reported that tenders had been invited for the purchase of a portable water purifying plant. He also advised the Mayor that tenders had closed on 24 March 2006 and that the items would be submitted to the Bid Evaluation and Adjudication Committees as soon as possible. **D23**
- 9.073 Van Niekerk stated that she typed the memorandum on the instruction of Cooper in order to report progress to the Mayor and confirmed that the memorandum was signed by Cooper. **F3/3**

**25) Minutes of the Bid Evaluation Committee Meeting held on 4 April 2006**

- 9.074 At the meeting of the Bid Evaluation Committee (BEC) meeting held on 4 April 2006 chaired by Mrs N Tayabashe the following was recorded: **D24**
- 1) Under Evaluation of Bids: *"Only one bid was received by the closing time and date from Intaka Investments (Pty) Ltd in the amount of R2,794,000 including VAT for the supply, installation and commissioning of a Wataka model 050 portable water treatment plant capable of producing 1Ml of water per day. The bid includes provision of R40 000 for increasing the raw water supply capacity from the Modder River but does not include for non-specified civil works to be done by the Sol Plaatje Municipality. Members of the Directorate: Infrastructure and Services as well as councillors have had the opportunity to see a similar unit which was installed at* **D24/5**

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*Heidelberg in the Cape during June 2005 for Overberg Water".*

The minutes further read as follows: *"The Evaluation Committee considered the fact that this is the sole bidder and it meets the specification"*

- 2) Under Recommendation: *"That it be recommended to the Bid Adjudication Committee that Contract CE/T2/06 for the supply, delivery, installation and commission of a water treatment plant at Ritchie in the amount of R2 794 000 including VAT be awarded to Intaka Investments Pty".* D24/6
- 3) Under Resolved: *"As recommended".* D24/6

9.075 The BEC meeting closed at 14:45 and the minutes was signed by the Chairperson on 21 April 2006. D24/6

9.076 Nomonde Tyabashe-Kesiamang (Kesiamang), the Executive Director for Strategy, Economic, Development and Planning of the Municipality was interviewed and an affidavit was provided by her. She reports to the Municipal Manager and was the Chairperson of the BEC during 2006 and hence the Chairperson of the BEC meeting that was held on 4 April 2006. F7

9.077 She stated that she was appointed as the Chairperson of the BEC on 30 March 2006 and attended a meeting on 3 April 2006 to discuss her roles and responsibilities. She cannot recall the details of the meeting and was appointed as Chairperson of the BEC just prior to this meeting and confirmed that it was her first BEC meeting in the capacity as Chairperson and was still very new in the position. The meeting was urgently called for by the Committee Services due to the nature of the services required and she confirmed that she signed the minutes of the meeting in her capacity as Chairperson of the BEC.

9.078 She noted from the minutes of the meeting that only one bid document was received from Intaka in the amount of R2,794,000 for the supply, delivery, installation and commissioning of a Wataka model 050 water purification plant and stated that the following were considered when evaluating a bid:

- i. *"The Municipal Manager authorised the Directorate: Infrastructure to urgently call for bids to supply, deliver and install a water purification plant. Hence, the*

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*Municipal Manager supported the recommendation that a contract be awarded.*

- ii. *Due to the urgency of the matter the bid document was not submitted to the Bid Specification Committee as contained in the item as signed by the ED: Infrastructure Services.*
- iii. *The BEC meeting was attended by Mr Cooper who was the Line Manager and advised the BEC of the required services.*
- iv. *Only one (1) x supplier submitted a bid document and hence we could not compare bid documents from more than one supplier; and*
- v. *The Financial Implications had been provided for and the budget was available.*

9.079 Mr Jeffrey Lionel Samuels (**Samuels**), Acquisition Manager, SCM of the Municipality was interviewed and an affidavit was provided by him. He is currently a serving member of the BEC and was a committee member of the BEC during 2006. F8

9.080 He confirmed that he attended the BEC meeting that was held on 4 April 2006 as reflected in the minutes of the meeting and stated that he cannot recall the details of the meeting and has to rely on the minutes of the meeting to refresh his memory. He noted from the minutes of the meeting that only one bid document was received from Intaka. The meeting was attended by Cooper as reflected in the minutes and Samuels stated that his knowledge and experience was highly regarded by the BEC and they would have relied on his presentation in order to make a recommendation to the Bid Adjudication Committee.

**26) Minutes of the Bid Adjudication Committee Meeting held on 4 April 2006**

9.081 At the meeting of the Bid Adjudication Committee (**BAC**) meeting held on 4 April 2006 chaired by Ms Madiba the following was recorded: D25

- 1) Under Inter-Sectoral Consultation it is recorded that "*The Municipal Manager*" D25/6

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*and the Chief Financial Officer were consulted”.*

- |       |   |                                |
|-------|---|--------------------------------|
| 2)    | Under Resolved to Recommend to the Adjudication Committee it is recorded<br>“That Contract CE/T2/06 for the supply, delivery, installation and commission<br>of a water treatment plant at Ritchie in the amount of R2 794 000 including<br>VAT be awarded to Intaka Investments Pty.   | <b>D25/6</b>                   |
| 3)    | A handwritten note at the bottom of the last page of the minutes reads as<br>follows: <i>“Approved in terms of section 5 (3) of the Supply Chain Management<br/>Policy”</i> and the entry is signed by the Accounting Officer. The signature<br>appears to be the signature of Mr Mashilo.  | <b>D25/6</b><br><br><b>D13</b> |
| 9.082 | The BAC meeting closed at 16:33 and the minutes was signed by the Chairperson<br>on 3 May 2006.   | <b>D25/6</b>                   |
| 9.083 | The stores requisition No 418525 dated 4 April 2006 must therefore have been<br>prepared and then authorised by Madiba after 16.33 on 4 April 2006 or it was done<br>prior to the BAC meeting on 4 April 2006.  | <b>D32</b>                     |
| 9.084 | Bogacwi confirmed that he was a member of the BAC during 2006 and attended a<br>number of BAC meetings. He cannot recall the details of the BAC meeting that was<br>held on 4 April 2006 when the said tender was discussed but can recall that Intaka<br>was the only bidder who submitted a tender document whereafter the BAC had<br>approved the award to Intaka based on the recommendation from the BEC. He<br>confirmed that Ms Madiba was the Chairperson of the BAC and the person<br>responsible to call the meeting. The minutes of the meeting reflects that Mashilo was<br>consulted in the process and Bogacwi stated that his involvement in the matter<br>added value to the recommendation of the award to Intaka. | <b>F2/4</b>                    |
| 9.085 | Brooker confirmed that he attended the BAC meeting on behalf of Mr Fred Barnard<br>on 4 April 2006 when the contract was awarded to Intaka. He stated that he <i>“was not<br/>part of any other processes that has taken place after the Adjudication Committee<br/>e.g signing of contract, placing the official order, signing off of official for payments.”</i>   | <b>F11</b>                     |
| 9.086 | Mr Petrus Jakobus van der Walt,( <b>van der Walt</b> ), Chief Officer, Corporate Services of  | <b>F9</b>                      |

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the Municipality was interviewed and an affidavit was provided by him. He confirmed that he attended BEC and BAC meetings on behalf of the Committee Services Section as reflected in the minutes of the meetings.

9.087 He recall that he attended some of the committee meetings on behalf of Ms Cornelia Burger (**Burger**) during 2006 when she was not able to do so. She was the person responsible to attend all the BEC and BAC meetings on behalf of her Section but could not attend all the meetings due to the shortage of staff and hence the reason why he attended some of the meetings on her behalf. He cannot recall the details of the aforementioned BEC and BAC meetings and has to rely on the minutes of the meetings to refresh his memory. The Committee Services Section was responsible for the preparation and recording of the agenda and minutes of the meetings and hence not his responsibility. He noticed from the minutes of the BEC and the BAC meetings that the BEC and the BAC was held on the same day shortly after each other. He cannot recall the circumstances under which these meetings were held and stated that he *"assume that it was urgently called for because these meetings are normally held a few days apart from each other in order to allow the committee members' sufficient time to prepare for their respective meetings"*. His involvement was limited to the attendance of the BEC and the BAC as reflected in the minutes.

9.088 Burger, Head: Committee Services of the Municipality was interviewed and an affidavit was provided by her. Her job description as Head: Committee Services is to take responsibility for the Committee Services and to take responsibility for providing support to the various committees such as the Bid Specification Committee; BEC and the BAC. Her work activities includes amongst other duties the following:

**F10**

- i. *"Convene of committee meetings as instructed by the Municipal Manager, Chief Financial Officer (CFO) or relevant Executive Director of the Municipality.*
- ii. *Receiving items with the relevant annexure from the directorate to call the committee meetings;*
- iii. *Preparing of agenda's for committee meetings;*

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- iv. *Copying and distributing documentation to all the committee members prior to meetings for purposes of review and preparation; and*
- v. *Attending and recording of committee meetings held.*

9.089 She confirmed that she was not at work on 4 April 2006 and van der Walt attended the meetings on behalf of the Committee Services Department. She stated that Mrs N Madiba was the Chief Financial Officer during this period and also the Chairperson of the BAC. She occasionally instructed Burger to convene BEC and BAC meetings, whereafter they issued a "Notice" and informed the various committee members of the date and time when the meetings had been convened for. Burger stated that she also made entries of these instructions in her diary and normally recorded it down in red pen. She reviewed her diary and determined that she had preliminarily noted the instruction in pencil that the BEC and the BAC had to be set for the 4<sup>th</sup> of April 2006. She has also reviewed her electronic records and cannot find any record of the official "Notice" for both the BEC and BAC meetings and stated that *"This is an indication that these meetings were urgently called for on short notice and the normal procedures were not followed"*.

9.090 Mrs Nandipha Daphne Madiba (Madiba), the former Director: Finance of the Municipality was interviewed by the SAPS and an affidavit was provided by her. She was the Chairperson of the BAC during the period 1 January 2006 to 31 December 2008.

**F12**

9.091 Madiba stated that she had no knowledge nor involvement in the process that lead up to the procurement of the Wataka Water Purification Plant and had not met any of the Intaka employees prior to when she chaired the BAC meeting that was held on 4 April 2006. She recalls that the BAC made a recommendation *"to the City Manager in support of the BEC recommendation to award the bid to Intaka"*. She cannot explain why the BEC and BAC meetings were held on the same day and stated that *"the urgency of acquiring the Water Purifier might have been the reason thereof, as it was practice that where there was urgency on acquiring products or services, such meetings would be held on the same day"*. She stated further that she was not

**F12/1**

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pressurized by anyone to attend to the said meeting.

**27) Stores requisition No 418525 dated 4 April 2006**

- 9.092 A copy of the stores requisition No 418525 dated 4 April 2006 was seized by SAPS from John Block's residence. This requisition is made out to "Intaka Investment Pty" and is for the "Supply, Delivery and Commissioning of Water Treatment Plant for Indigents" and is for an amount of R2 794 000. The requisition appears to have been authorised by Madiba as the signature thereon is similar to that on the BAC minutes of the meeting held on 4 April 2006 where Madiba was the chairperson. D32  
D25/6

**28) Letter from the Municipal Manager to Intaka dated 5 April 2006**

- 9.093 On 5 April 2006 Mashilo, the Municipal Manager, sent a letter to Intaka titled "Contract CE/T2/06: Supply, Delivery, Installation and Commissioning of Water Treatment Plant" advising them that *"the Bid Adjudication Committee awarded the above contract in the amount of R2 794 000 including VAT to you firm"*. The contact person of the Municipality is recorded as Mr Cooper, the City Engineer. This letter has "Cheque of R200.00 also attached – refund for tender" written on the bottom. The Conditions of Tendering item 3 states that "Allbids must be accompanied by a bank guaranteed cheque of R200.00 which the Municipality may retain if the bid is withdrawn after the bid has been awarded by the Municipality. The deposits of unsuccessful bidders shall be returned when they are informed that their bid was unsuccessful." D26/1  
D22/13
- 9.094 I have located a copy of the said letter in the Intaka records seized by the SAPS together with the "Form of Agreement" that appears to be signed by Praderi of Intaka dated 24 March 2006, and Mashilo on behalf of the Employer (the Municipality) dated 5 April 2006. Paragraph 4 of the said Agreement reads as follows: *"The employer hereby covenants to pay to the contractor in consideration of the construction, completion and maintenance of the works the contract price at the times and in the manner prescribed by the contract"*. D26/2-4

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- 9.095 Van Niekerk stated that she prepared the letter on the instruction of Cooper, F3/4  
*"advising Intaka that the Bid Adjudication Committee awarded the above contract"* to  
 Intaka.

**29) Letter from Intaka to Sol Plaatje Municipality titled "Contract CE/T2/06:  
 Supply, Delivery and Commissioning of Water Treatment Plant" dated 6  
 April 2006**

- 9.096 On 6 April 2006 Intaka sent a letter for the attention of Ms N Madiba, Chairperson of D27/1  
 the BAC, confirming that they have received the award letter from Mashilo and the  
 fax from Madiba with order number A/25278. Intaka have attached a Sales Order No D27/2-3  
 SO 0001 and Invoice number INA 10047 to the said letter and have confirmed that  
*"The plant is ready to be sent against reception of payment"*. I could not locate a  
 copy of Order No A/25278 from the Municipality which is referred to by Intaka.
- 9.097 An e-mail from Alicia Marcos of Skyros on behalf of Intaka to John Block titled "Sol D28  
 Plaatje Municipality" dated 6 April 2006 located in the electronic records seized by  
 the SAPS from John Block reflects that Intaka sent a copy of the said letter together  
 with the Sales Order and Invoice to John Block for his information. The e-mail reads  
 further as follows: *"We are also sending the original invoice by courier today, as they*  
*need it to proceed with payment"*. The Intaka Sales Order No SO 0001 I referred to  
 earlier in paragraph 9.026 of this report dated 20 February 2006 contains the same D6/3  
 information as the Intaka Sales Order No SO 0001 dated 6 April 2006.

**30) Feasibility Report titled "Ritchie: Extension of Bulk Water Supply  
 Project" prepared by Africon dated June 2006**

- 9.098 I was provided with a report issued by Africon to the Sol Plaatje Municipality titled D29  
*"Ritchie: Extension of Bulk Water supply Project: Feasibility Report dated June 2006*.  
 Cooper has referred to a report issued by Africon in his memorandum he sent to the  
 Mayor dated 3 March 2006 regarding extensions to Rietvale and Motswadimosa as  
 discussed earlier in paragraph 9.031 of this report. The said memorandum dated D10  
 3 March 2006 contains a handwritten comment by van Niekerk *"See attached report*

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dd June 2006" which refers to the report in question. I assume that the writer had received some form of report (i.e. verbal feedback) from Africon at the time when he sent the memorandum because Africon issued their feasibility report only in June 2006 (four months after the said memorandum was sent).

9.099 I will not repeat the content of the entire Africon report but wish to refer to specific sections thereof.

- 1) The first paragraph of the introduction reads as follows: *"This feasibility Report was compiled by Africon on behalf of the Sol Plaatje Municipality. The project entails the expansion of bulk water supply infrastructure for the Ritchie settlement in Sol Plaatje Municipality."* D29/4
- 2) Paragraph 4 of the introduction reads as follows: *"The expansion will put pressure on the bulk water supply infrastructure, of which portions are already under pressure. This business plan makes provision for the upgrading of bulk water supply infrastructure including raw water extraction capacity, purification capacity, storage capacity and transfer pumping capacity to meet the projected demand for the next ten years"* D29/4
- 3) Paragraph 2.2 deals with the "Existing Water Source". An extract of said paragraph reads as follows: *"Ritchie and associated Modderriver settlements derive their water supplies from the Riet River which forms the southern boundary of the town. The water is extracted directly from the Riet River and from an irrigation canal in Ritchie. The main water source is the river where water is extracted at a weir. The canal water cannot be seen as a dependable allocation as it is dependent on discharge into the canal. The current allocations for these two sources are 500 000kl/annum and 83 950 kl/annum respectively. The 83 950 kl/annum is actually allocated for an erf belonging to the municipality so their Schedule 1 allocation is in reality limited to 500 000 kl/annum which is already substantially exceeded"* D29/6
- 4) Paragraph 2.4 deals with the "Existing Water Services Infrastructure" and

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- refers to the Water Source (paragraph 2.4.1) and Supply Pipelines and Pump Intakes (paragraph 2.4.2) in further detail. Paragraph 2.4.2.5 refers to the Pumps to Elevated Reservoirs and reads as follows: *"The Motswedimosa/ Ritchie zone is supplied from a 620 kl elevated reservoir on a 15 m stand. The reservoir is supplied via duty and standby M&B Normaflo pumps with a capacity of approximately 8,5 l/s. The motors driving these pumps are rated at 15kw. This supply zone is subject to frequent water shortages during summer when portions of the community are without water for periods that vary from a few hours to a few days."* D29/11  
D29/12-13
- 5) Paragraph 2.4.4 deals with the "Water Purification Works" and states that the purification works comprises of a conventional treatment facility with a number of components. They have identified some minor problems in the water treatment facility which is self-explanatory and I am not going to repeat the entire content thereof. D29/16-18
- 6) Paragraph 3.2 deals with "Future Water Demand" and indicates that Africon has projected a water demand for 2015. Africon projected that *"The future water demand for Ritchie will translate in a raw water demand of approximately 1 000 000 kl per year"*. D29/23-24
- 7) They concluded their report with "Conclusions and Recommendations" summarised as follows: D29/32
- "In the light of the existing waterworks and access to a reliable water source from the Riet River, the upgrading of the existing works is considered the only viable method of supplying water to the additional stands currently being developed and the future needs of the Ritchie community."*
- It is therefore recommended that:*
- *An application be made to increase the water allocation from the Riet River to 1 000 000 kl/annum;*
  - *The works proposed in this Feasibility Report and the associated MIG Application be approved;*

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- *The final configurations of the various components be determined during the detailed design stage of the project;*
- *The qualifications of operators at the existing Ritchie plant be investigated.*

9.100 It is evident from the Africon report that the problems that had been experienced in the Ritchie area were mainly as a result of the shortage of raw water and hence the reason why they recommended an increase in the water allocation to Ritchie from the Riet River to 1 000 000 kl/annum. The findings of this report did not indicate that there was a problem with the quality of the water or that the water purification works required upgrading or a water purification plant. Cooper in his memorandum to the Executive Mayor dated 3 March 2006 concluded as follows: *"The purchase of the plant will serve no purpose at this stage without increasing the capacity of raw water provision"*. This statement by Cooper was confirmed by both Coetzee and Swiegers.

D10

F5-F6

**Intaka Northern Cape and Chisane Investments: links to Intaka and commission payments for sales from Intaka**

9.101 I previously discussed Intaka Northern Cape being linked to Intaka; and the involvement of John Block. I identified a number of documents seized by the SAPS at the premises of John Block, 10 Golden Gate Street, Cartes Glen, Kimberley relevant to Intaka Northern Cape and Chisane Investments. I have already referred to some of these documents iro Intaka Northern Cape. Further documents are summarised hereunder for ease of reference:

- 1) Inaugural meeting of Tarree Investments (Intaka Northern Cape) on 2 March 2005; and D30
- 2) An Agenda for Intaka Northern Cape Board meeting to be held on 3 August 2005. D31

9.102 I wish to refer to the following additional documents located at the premises of John Block as they will be referred to in my interview with Adriaan Laubscher (**Laubscher**), a former Intaka employee.

- 1) Chisane Investments Invoice number CHI003 is dated 31 June 2005 (June has E1

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only 30 days) and addressed to Eugene Hope. It refers to "Consultancy Services provided in the Northern Cape Province" in the amount of R139,707. It reflects John Block as Company Director.

- 2) Chisane Investments Invoice numbers CHI008 and CHI010 dated 14 September 2005 and 29 November 2005 are addressed to Eugene Hope. They refer to "Consultancy Services provided in the Northern Cape Province" in the amounts of R187,986 and R62,814 respectively. The invoices reflect John Block as Company Director. E2/1-2

9.103 Another document that was located at the residence of John Block was a draft "Water Maintenance Agreement Ritchie" which was incomplete and unsigned." E8

9.104 I also located the following document in the records of Intaka seized by the SAPS

- 1) On 4 April 2006 John Block, Company Director Chisane Investments sent a fax and 2 invoices to Intaka Investments in respect of "Sales Commission due for Services rendered in Northern Cape Province", in the amounts of R85,000 and R80,000 respectively. The bank details provided is ABSA Bank Chisane Investments, City Centre, Kimberley, cheque account number 4060501886, branch code 500902. E3/1-3

- 2) A document that reflects that commission was payable to John Block for sales by Intaka Northern Cape. The relevance of this document is discussed by me in a separate report dated 12 October 2010 with regard to the ten (10) x water purification plants purchased by Northern Cape DOH from Intaka. The first sale of R1,698,000 being the invoice amount (R1,935,720) excluding VAT (R237,720) of the water purification plant supplied to Calvinia Hospital a commission of R80,000 was payable; and the second sale of R1,768,000 being the invoice amount (R2,015,720) excluding VAT (R247,520) of the water purification plant supplied to Colesberg Hospital a commission of R85,000 was payable. This amounts to commission of 4.7% and 4.8% of the sale amounts exclusive of VAT. E4

9.105 A Kreditinform Enquiry determined that Chisane Investments (Pty) Ltd with registration number 2004/004027/07 was previously known as Sage Wise 117 and B6

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was registered on 18 February 2004. The sole Active Principal appointed 8 March 2004 is John Block.

**Interview with Laubscher**

9.106 I conducted an interview with Laubscher who was employed as the financial manager at Intaka Manage (Pty) Ltd from October 2005 to March 2008. He resigned in October 2007, but stayed on until March 2008, the last three months of which were in a consulting capacity.

9.107 He provided an affidavit that includes the information relating to the business transacted between the Intaka Group and the Northern Cape DOH and KZN DOH. I have referred to his affidavit in further detail in my forensic accounting reports issued in these investigations and hence will not repeat the content thereof. I will only refer to the relevant part of his affidavit that deals with the information relating to Intaka, John Block and the municipalities. F1

1) John Block was initially Dr Savoi's contact in the Northern Cape. He knew that Block was the leader of the ANC in the Northern Cape. Block was initially involved in Health and then mainly in the various municipalities. He did not specifically know what the commission payments of R139 707, R187 986 and R62 814 were for, but he did suspect that they were for playing an intermediary role with customers in local and provincial government in the Northern Cape. E1,E2/1-2

2) On Dr Savoi's instruction he prepared a schedule which sets out how the profit on the Wataka's sold in the Northern Cape would be split as 30% commission to Block and 70% as Management fee to Intaka. Dr Savoi told him that this schedule was to show Block what his share of the profit was and how it was calculated. The signature on this document is that of Dr Savoi and is dated 13 April 2006. As far as he could recall Block was at Intaka's offices when he prepared this schedule. E4

3) He later received a fax from Chisane Investments, which was Block's company, and pages 2 and 3 of the fax were Chisane Investments invoices for R80 000 and E3/1-3

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R85 000. These invoices were for Block's commission on the first 2 Wataka's purchased by the Northern Cape Department of Health for the hospitals in Calvinia and Colesberg. The amounts on the invoices are for the same amount as set out on the schedule he prepared on Dr Savoi's instruction (refer sub-paragraph 2) above. An invoice for a third Wataka in the Northern Cape was also received from Block in the amount of R136,000. This was also in terms of the schedule he prepared for Dr Savoi being R120,000 (R136,000 less VAT) but he was not sure which Wataka it related to. The correct amount of the invoice should read R136,800, which is in terms of the copy provided to me by Laubscher where a suitable endorsement has been made, however the payment receipt reflects R136,000.

E4

E6

E5/1

E5/2

**Chisane Investments (Pty) Ltd ABSA Bank account number 4060501886**

9.108 The aforementioned bank account was subpoenaed by the SAPS. The bank has stated that they were unable to locate the opening documents as per the FICA Centre. I have been provided with bank documents with effect from 1 January 2006 only. I identified the following payments that I have linked to Chisane Investments invoices issued to Intaka for commissions for the Wataka units in the Northern Cape Province; the remaining 3 invoices were issued in 2005 and as stated above I do not have bank statements prior to 1 January 2006:

E7

- 1) On 19 April 2006 "ACB Credit Inv. CHI025" in the amount of R136,000. This is consistent with Chisane Investments invoice number CHI025 in the amount of R136,000. Laubscher provided me with a Standard Bank payment receipt confirming the payment of R136,000 on 18 April 2006 by Intaka to Chisane Investments. In terms of Laubscher's explanation this was for a 3<sup>rd</sup> Wataka. The balance of the account prior to the said deposit was -R4,689.96. Intaka Standard Bank account number 071878890 reflects the payment in the amount of R136,000 on 18 August 2006. This statement was located in the Intaka records seized by the SAPS.
- 2) On the same day 19 April 2006 "ACB Credit Inv. CHI023/ HI024" in the amount of R188,100. Chisane Investments invoice numbers CHI023 and CHI024 in the

E7/4

E5/1

E5/2

E5/3

E7/4

E3/2-3

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amounts of R85,000 and R80,000 respectively amounts to R165,000 inclusive of VAT per the invoices. Laubscher provided me with 2 more Chisane Investments invoices: CH1023 and CH1024 in the amounts of R85,000 excluding VAT (R96,900 inclusive of VAT) and R80,000 excluding VAT (R91,200 inclusive of VAT). These amounts total R188,100. Laubscher also provided me with a Standard Bank payment receipt confirming the payment of R188,100 on 18 April 2006 by Intaka to Chisane Investments. These payments were commissions for the Wataka's commissioned at Colesberg and Calvinia Hospitals. Intaka Standard Bank account number 071878890 reflects the payment in the amount of R188,100 on 18 August 2006. This statement was located in the Intaka records seized by the SAPS.

E6/1-2

E6/3

E6/4

**Site visits**

9.109 I visited Ritchie where Intaka installed the water purification plant that was purchased by the Sol Plaatje Municipality. Photographs of the Wataka unit were taken and are attached. I determined the following:

G1

- 1) The plant at Ritchie was commissioned and is not currently operational. G1/1
- 2) The Wataka storage tank is empty indicating the plant is not operational. G1/2
- 3) The water pump fitted to the plant is a Westpro pump; and G1/3
- 4) The water purification works that was operational during my site visit comprises of the old conventional treatment facility. G1/4

**Summary of Findings**

9.110 Detailed below is a summary of the significant findings from the investigation conducted into the procurement of the Water Purification Plant by the Sol Plaatje Municipality from Intaka:

- 1) Intaka received an order from the Sol Plaatje Municipality in the amount of R2,794,000 on 5 April 2006, for the supply, delivery, installation and commissioning of a Wataka water treatment plant. D26-D27

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- 2) The awarding of the said order was approved by the Municipality's BAC on 4 April 2005 in terms of Section 5 (3) of the Municipality's SCM Policy. This occurred after Mashilo, the former Municipal Manager of the Municipality, sent a letter to Bogacwi of the Infrastructure and Services Department dated 9 March 2006 to follow SCM procedures to procure for the services of a "Transportable Water Purifying Plant". Mashilo stated in his letter that *"There is an urgent need for the municipality to have a mobile water purification relief plant"* and he authorised the closure date for the submission of bids to be shortened to four (4) x days. Mashilo as Accounting Officer is authorised in terms of paragraph 22 (2) of the Municipality's SCM Policy to *"determine a closure date for the submission of bids which is less than the 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process"*. D25 D13 A6/20
- 3) John Block and Intaka have entered into discussions with Mashilo and Lenyibi, the former Mayor of the Municipality, five (5) x months prior to the implementation of the aforementioned bidding process and hence this indicates that the application to purchase the water purification plant cannot be justified on the grounds of an urgent or emergency or exceptional case.
- 4) On 4 November 2005 Dr Savoi sent a letter to Lenyibi and Mashilo wherein he introduced Intaka in order to promote his business. D1
- 5) On 14 November 2005 Dr Savoi sent a letter to Mashilo and quoted an amount of R2,694,000 per water purification unit including VAT, freight and installation. The said letter was also sent to John Block. Dr Savoi sent another letter to Lenyibi, the former Mayor of the Municipality, on 26 January 2006 and quoted an amount of R2,794,000 per water purification unit, including VAT, freight and installation. This quotation is R100,000 more than the initial price quoted on 14 November 2005 and an increase of 5.6% in price. D3 D4/5
- 6) On 17 February 2006 Dr Savoi was informed by John Block that *"The blessings of my birthday are indeed paying off. The younger I get the more Watakas we seem to be getting. I need a birthday every month"*, implying the sale of Wataka's is going well. He confirms that Sol Plaatje Municipality will need a Wataka for a town called Ritchie as soon as possible. He continue by saying the following: *"They are ready and they have the money to pay for the Wataka. Please send the* D4/8-9
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*request for the order to the following people”, whereafter he listed the details of Mashilo and Cooper. He concluded the said e-mail by stating the following: “I am still on the pulse of the Upington Municipality, I will have feedback by next week. I feel like El Presidente when he commands his people. Patria o muerte! Venceremos!”*

- 7) On 17 February 2006 Mr Lenyibi sent a memorandum to the Municipality and attached the Intaka quotation dated 26 January 2006. He then requested the Municipality to liaise directly with Intaka. D5
- 8) On 21 February 2006 Intaka sent a fax to Cooper and attached a letter they sent to Mashilo dated 20 February 2006 with a Sales Order No So 0001 iro a “Wataka unit Model 050” in the amount of R2,794,000. I determined that the said letter and Sales Order issued to the Municipality was also sent to John Block. D6/1-3  
D6/4-6
- 9) On 23 February 2006 Cooper requested Intaka to supply him with the technical specifications of the Wataka unit. Praderi of Intaka replied to him on the same day with the information he required iro the water purification plant. D7  
D8
- 10) On 28 February 2006 Dr Savoi sent an e-mail to Praderi and reported that “We have concluded the sale of a Wataka model 050 for R2,794,000, including VAT, freight, installation for Ritchie town. The plant is ready for installation”. D9
- 11) On 3 March 2006 Cooper sent a memorandum to the Mayor and advised him as follows: D10
  - i. *“According to the report of Africon regarding extensions to Rietvale and Motswedimosa the capacity of the water plant at Richie is sufficient for present requirements. Problems have been experienced with the availability of raw water from the Riet River as well as operational problems*
  - ii. *The cost of R2 794 000 appears excessive for the capacity of the plant and excludes civil works and extensions to the raw water capacity; and*
  - iii. *The purpose of the plant would serve no purpose at this stage without increasing the capacity of raw water provision”.*
- 12) Africon prepared a feasibility report titled “Ritchie: Extension of Bulk Water Supply Project” dated June 2006 They concluded their report with “Conclusions and Recommendations” summarised as follows: D29  
D29/31

*“In the light of the existing waterworks and access to a reliable water source*

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*from the Riet River, the upgrading of the existing works is considered the only viable method of supplying water to the additional stands currently being developed and the future needs of the Ritchie community.*

*It is therefore recommended that:*

- *An application be made to increase the water allocation from the Riet River to 1 000 000 kl/annum;*
- *The works proposed in this Feasibility Report and the associated MIG Application be approved;*
- *The final configurations of the various components be determined during the detailed design stage of the project;*
- *The qualifications of operators at the existing Ritchie plant be investigated.*

- 13) It is evident from the Africon report that the water problems that had been experienced in the Ritchie area were mainly as a result of the shortage of raw water and agree with the information Cooper provided to Lenyibi that "The purpose of the plant would serve no purpose at this stage without increasing the capacity of water". The statement by Cooper was confirmed by both Coetzee and Swiegers of the Municipality. D10  
F3-4
- 14) On 9 March 2006 Mashilo sent a memorandum to Bogacwi to follow the SCM procedures in order to purchase a "Transportable Water Purifying Plant". He stated in the memorandum that *"there is an urgent need for the municipality to have a mobile water purification relief plant, that can suite our need"* and concluded that *"The urgency requires that we do not delay this requisition on the basis of awaiting new delegations and bid communities review. You are authorised to minimize the period for which the tender advert is left open to 4 (four) days, in consideration of the urgency of this matter"*. D13
- 15) The tender for the supply of a "Mobile Emergency Water Purification Plant" iro Contract CE/T2/06 was advertised on 17 and 18 March 2006 and reflected that bids had to be placed in the Bids Office not later than 11:00 on Monday, 3 April 2006. Hence, the closing date was not advertised within four days as authorised by Mashilo and was subsequently changed. It appears that the closing date was changed to four days after Savoi complained to John Block in his e-mail dated 17 March 2006. D16  
D18/2

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- 16) I determined that Intaka and John Block had information on the advertisement of the tender prior to the date when the article was published and hence indicates that Dr Savoi, Intaka and John Block had a relationship with the Municipality that extended beyond a client/supplier relationship.
- i. On 16 March 2006 Dr Savoi informed Praderi that the request for two Water Purification Plants for Ritchie would be published on the following day (17 March 2006) mentioning Wataka specifications. D18/1
  - ii. On 17 March 2006 Dr Savoi sent an e-mail to John Block titled "Wataka tender-Sol Plaatje" and state the following: *"Thank you for your fax of today (17/03/06). We are astonished to see that a two- week period (until April 3) has been given until the closing of the tender, instead of the four days you mentioned, and furthermore to find that there is no mention of our specs at all in published the text. We need to know as soon as possible if we should quote for 1 or 2 Wataka Plants".* D18/2
- 17) On 22 March 2006 Dr Savoi sent an e-mail to Praderi and confirmed that John Block will send the documentation relating to the Ritchie tender by courier and Intaka had to prepare the tender urgently. D18/8
- 18) The tender document that was handed out contains a handwritten amendment that indicates the closing date for the bid from Monday 3 April 2006 was changed to Friday 24 March 2006. The tender document also contains a schedule attached to the document that indicates the said amendment. Matsie confirmed that the amendment to the tender was not published in the newspapers. D20
- 19) Intaka was the only supplier who paid a deposit for a bid document and hence was the only supplier who had submitted a bid document for the said tender. Intaka's bid document for the said Tender No CE/T2/06: Mobile Emergency Water Purification and Supply for Indigents is dated 24 March 2006. F6
- 20) The BAC approved the award of the tender to Intaka on 4 April 2006 in terms of section 5(3) of the SCM Policy and sent a letter of award to Intaka on 5 April 2006 wherein they advised Intaka to supply the water purification plant in the amount of R2,794,000 including VAT. The Municipality paid Intaka the full contract amount of R2,794,000 on 7 April 2006. Madiba also sent a fax to Intaka with order A/25278. Neither the fax or the order can be found at the Municipality. D21
- 21) John Block received 2 payments through Chisane Investments from Intaka D25
- D26
- E3/E6
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amounting to R188,100 for commission on the sale of the first two water purification plants delivered to the Northern Cape Department of Health on 18 April 2006. He further received a payment in the amount of R136,000 on 18 April 2006; Laubscher alleged that this was for a "third Wataka in the Northern Cape". It is my submission that John Block received this payment through Chisane Investments from Intaka for commission on sale of the water purification plant delivered to the Sol Plaatje Municipality, being the only other Wataka water purification plant delivered to the Northern Cape during April 2006 according to my understanding. This payment of R136,000 for commission was made on 10 April 2006 which was 3 days after the Municipality paid Intaka R2,794,000.

E5

F1/5

- 22) In summary, on 4 November 2005 Dr Savoi sent a letter to Lenyibi and Mashilo wherein he introduced Intaka in order to promote his business and subsequently sent them quotations for a water purification plant dated 14 November 2005 and 26 January 2006 respectively. On 28 February 2006 Dr Savoi sent an e-mail to Praderi and reported that they have concluded the sale of a Wataka model 050 for installation at Ritchie. On 3 March 2006 Cooper sent a memorandum to the Mayor (Lenyibi) that *"The purpose of the plant would serve no purpose at this stage without increasing the capacity of raw water provision"*. On 9 March 2006 Mashilo sent a memorandum to Bogacwi to follow the SCM procedures in order to purchase the water purification plant because "there was an urgent need" and authorised to minimise the period for which the tender advert is left open to four (4) x days. The tender for the supply of a "Mobile Emergency Water Purification Plant" was advertised on 17 and 18 March 2006 and closed on 24 March 2006 after Dr Savoi complained to John Block in an e-mail dated 17 March 2006. Both the BEC and the BAC meetings were held on 4 April 2006 whereafter the BAC approved the award of the tender to Intaka on the same day. A stores requisition No 418525 was prepared and then authorised by Madiba on 4 April 2006 even although the BAC meeting only finished at 16.33 on 4 April 2006. Intaka was the only supplier who submitted a Bid document for the said tender and the Municipality sent a letter of award to Intaka on 5 April 2006. The Municipality paid Intaka the full contract amount of R2,794,000 on 7 April 2006 which was prior to the plant being delivered and commissioned. John Block received a payment through Chisane Investments from Intaka in the amount of R136,000 for

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commission on 10 April 2006 which was 3 days after the Municipality paid Intaka R2,794,000.

23) It would appear in addition that Mashilo, by recommending and approving the engagement of Intaka to supply the water purification plant to the Municipality, contravened:

- The provisions of section 217 of the constitution of the Republic of South Africa Act 108 of 1996 in that:
  - He failed to follow a procurement system which is fair, equitable, transparent, competitive and cost effective.
- Section 61 (1)(a)(c) of the MFMA in that he failed to:
  - Act with fidelity, honesty, integrity and in the best interests of the municipality in managing its financial affairs; and
  - Seek, within the sphere of influence of the accounting officer, to prevent any prejudice to the financial interests of the municipality.



**T S White**  
**Director: Forensic Services**  
**8 July 2011**

# 13





TSW 13

In the matter between:

THE STATE

And

GASTON SAVOI  
 DUMISANI SIPHO DERRICK SHABALALA  
 BEATRICE NTOMBENHLE OTRINA SHABALALA  
 WELCOME SANDILE KHUBONI  
 IAN BUHLLEBAKHE BLOSE  
 NOSIBELE PRISCILLA PHINDELA  
 JABULANI LANGELIHLE THUSI  
 INTAKA INVESTMENTS (PTY) LTD/ INTAKA TECH (PTY) LTD/ INTAKA  
 HOLDINGS (PTY) LTD  
 KUBONI AND SHEZI ATTORNEYS


ACCUSED 1  
 ACCUSED 2  
 ACCUSED 3  
 ACCUSED 4  
 ACCUSED 5  
 ACCUSED 6  
 ACCUSED 7  
 ACCUSED 8  
 ACCUSED 9

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 REPORT OF TREVOR SEAN WHITE
 

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|------------------------------|--|
| Dated                        | 29 July 2011   |
| Specialist field             | Chartered Accountant and Forensic Auditor  |
| On behalf of the Prosecution | The Director of Public Prosecutions  |
| On the instruction of        | The Department of National Treasury  |
| Subject matter               | Investigation conducted into the purchase of twenty (20) x Water Purification Plants by the KZN Department of Local Government and Traditional Affairs from Intaka Investments (Pty) Ltd |

  
 Trevor White  
 PricewaterhouseCoopers  
 PO Box 1049  
 DURBAN  
 4000

Telephone 031 271 2000  
 Facsimile 031 202 8220  
 Cell phone 082 454 6864

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**Chartered Accountant and Forensic Auditor**

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| Personal details  | 1        |
| Experience and qualifications   | 1        |
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**ABBREVIATIONS AND TERMINOLOGY**

The following are abbreviations and terminology that have been used in this report:

| <b><i>Abbreviated name/<br/>terminology</i></b> | <b><i>Full name and/or description</i></b>  |
|---|---|
| Badenhorst                                      | Matthys Badenhorst, Regional Director, National Department of Water Affairs                       |
| Baldie  | Rene Baldie, Deputy Manager, SCM, KZN COGTA   |
| BAS   | Basic Accounting System   |
| Beatrice Shabalala                              | Beatrice Ntombenhle Otrina Shabalala  |
| Beykirch  | Desmond Beykirch, Manager Human Capital Development, COGTA  |
| Blose   | Ian Buhlebakhe Blose  |
| Blue Serenity Investments                       | Blue Serenity Investments (Pty) Ltd t/a City Royal Hotel  |
| Bolton  | Gillian Bolton, Mazars Director Forensic Services   |
| Braithwaite                                     | Geoff Braithwaite, Variquip   |
| Coetzee   | Carol Coetzee, Head of Department, KZN Department of Economic Development and Tourism             |
| COGTA   | KwaZulu-Natal, Department of Co-Operative Governance and Traditional Affairs                      |
| Conradie  | Hermann Conradie, Acting Accountant General, KZN Provincial Treasury                              |
| CPC   | KZN Provincial Treasury, Central Procurement Committee  |
| Dr Mkhize                                       | Dr ZL Mkhize, Premier of the Province of KZN and ex- MEC for KZN Finance and Economic Development |
| DWA   | National Department of Water Affairs  |
| Evetts  | Andre Evetts, Manager Infrastructure Development, KZN COGTA                                       |
| Gerrans   | Tony Gerrans, Grotto  |

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| <b>Abbreviated name/<br/>terminology</b> | <b>Full name and/or description</b>  |
|--|--|
| Govender                                 | Dhanaseelan Govender, Project Manager, Municipal Infrastructure, COGTA                           |
| Grotto                                   | Grotto Defranceschi  |
| HOD                                      | Head of Department   |
| Imvusa                                   | Imvusa Stainless cc  |
| Health Department                        | Department of Health KwaZulu-Natal   |
| Intaka                                   | Intaka Investments (Pty) Ltd, Intaka Tech (Pty) Ltd, Intaka Holdings (Pty) Ltd                   |
| Johnson                                  | John Johnson, Head of Local Government, COGTA  |
| Kruger                                   | Margaret Kruger  |
| Kuboni                                   | Welcome Sandile Kuboni   |
| Kuboni and Shezi                         | Kuboni and Shezi Attorneys   |
| Kuhn                                     | Karl- Heinz Kuhn, Manager Legal Services, COGTA  |
| KZN                                      | Kwa-Zulu Natal   |
| KZN LG & TA                              | KwaZulu-Natal Department of Local Government and Traditional Affairs                             |
| Mabuyakhulu                              | Mr Michael Mabuyakhulu, MEC for KZN Economic Development and Tourism and ex- MEC for KZN LG & TA |
| Maduna                                   | Makenete Maduna, General Manager, Urban and Rural Development, COGTA                             |
| Matsau                                   | Alvina Matsau, Kuboni and Shezi Attorneys  |
| Miller                                   | Donald Miller, Imvusa Stainless cc   |
| Mvelase                                  | Skhumbuzo Mvelase, Manager Intergovernmental Relations, KZN Provincial Treasury                  |
| Mzila                                    | Delani Mzila, Finance Manager, ANC KZN   |
| Naidoo                                   | Jonathan Naidoo, ex- TIKZN   |
| National Treasury                        | The Department of National Treasury  |

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| <b>Abbreviated name/<br/>terminology</b> | <b>Full name and/or description</b>  |
|--|--|
| Ntsalla                                  | T Ntsalla, ex- project manager, KZN Department of Economic Development   |
| Olckers                                  | Michele Olckers, Mazars Moores Rowland   |
| Persad                                   | Ranveer Persad, General Manager, Local Economic Development, KZN, Department of Economic Development and Tourism |
| PFMA                                     | Public Finance Management Act, Act 1 of 1999   |
| Phindela                                 | Nozibele Priscilla Phindela  |
| Povall                                   | Mark Povall, Manager, Development Administration, Land Development, COGTA  |
| Praderi                                  | Fernando Praderi, Intaka   |
| Pupuma                                   | Fikiswa Pupuma, General Manager, Trade and Investment KZN, Department of Economic Development and Tourism        |
| PwC                                      | PricewaterhouseCoopers   |
| Romani                                   | Ansano Romani, Invusa  |
| Salamax                                  | Salamax 1608 (Pty) Ltd   |
| SAPS                                     | South African Police Services  |
| Savoi (Dr Savoi)                         | Dr Gaston Savoi, Intaka  |
| SCM                                      | Supply Chain Management  |
| Shabalala                                | Dumisani Sipho Derrick Shabalala, ex- Head Provincial Treasury and husband of Beatrice Shabalala                 |
| Shaw                                     | Nicky Shaw (Brown), Assistant Manager Municipal Governance, COGTA  |
| Skyros Medical                           | Skyros Medical Supplies (Pty) Ltd  |
| Smith                                    | Jurgen Smith, Yara South Africa (Pty) Ltd  |
| Solomon                                  | Selwyn Solomon, Partner Mazars   |
| The Act                                  | The KZN Procurement Act No 3 of 2001   |
| Thusi                                    | Jabulani Langelihle  |

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| <b><i>Abbreviated name/<br/>terminology</i></b> | <b><i>Full name and/or description</i></b>   |
|---|--|
| Wilson  | Lionel Wilson, Assistant Manager, SCM, COGTA |



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**A. AUTHOR'S DETAILS**

**1.000 Name**

1.001 Trevor Sean White.

**2.000 Personal details**

2.001 I am a male with identity number 6611245014087, 44 years old. I am a director of PricewaterhouseCoopers Advisory Services (Pty) Ltd, 102 Stephen Dlamini Road, Berea, Durban with telephone number (031) 2712000.

**3.000 Experience and qualifications**

3.001 I joined Price Waterhouse in 1989, and was admitted as a director of PricewaterhouseCoopers on 1 July 1998, following the merger of Price Waterhouse and Coopers and Lybrand. I am presently the director in charge of the KwaZulu-Natal Risk Advisory Services department, which incorporates the Forensic Investigations Department of PricewaterhouseCoopers in KwaZulu-Natal.

3.002 I have conducted numerous fraud investigations for both public and private sector clients and have given evidence in the South African High Court and the Regional Court and in the Lesotho High Court. I have also presented evidence to a Commission of Enquiry, the Commission for Conciliation, Mediation and Arbitration ("CCMA") and at various disciplinary hearings. I am trained in auditing techniques and hold a Bachelor of Commerce degree and Post Graduate Diploma in Accountancy from the former University of Natal Durban. I was also admitted as a member of the South African Institute of Chartered Accountants in 1992. I am a Certified Fraud Examiner, being admitted as a full member of the Association of the Certified Fraud Examiners, a Texas based organisation, in 1998. I have been involved in a number of business valuations and performance audits. My specialist field is Forensic Auditing and as such I have extensive experience in analysing, reviewing and verifying financial information and accounting records. I have also

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chaired three investigative Commissions of Enquiry into Fraud and Corruption in Swaziland.

**B. MANDATE AND ISSUES TO BE INVESTIGATED**

**4.000 Appointment**

**4.001** The terms of our appointment are detailed in our agreement which was signed by Mr Freeman Nomvalo of the Department of National Treasury (**National Treasury**), on 2 July 2010. The said Agreement relates to the investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN Department of Local Government and Traditional Affairs (**KZN LG & TA**) and the Northern Cape Department of Health. This report covers the investigation into KZN LG & TA only; separate reports have been issued for the investigation conducted at the Northern Cape Department of Health.

**4.002** The following represents the General Procedures performed:

1. Requested and received Basic Accounting System (**BAS**) reports for Intaka who received orders for the supply of Water Purification Systems and were paid by the KZN LG & TA.
2. Obtained supporting payment vouchers.
3. In respect of the procurement procedures followed, obtained all relevant documents authorising waiver of tender procedures where applicable and minutes of meetings.
4. Interviewed and obtained affidavits where necessary from officials involved in the procurement procedure and/or who were referred to in relevant correspondence.
5. Determined whether any person involved in the procurement process or otherwise irregularly manipulated the procurement process to favour Intaka.

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6. Verified water purification systems to the extent considered necessary.
7. Interviewed third parties and obtained affidavits and supporting documents where necessary and applicable, including Intaka staff whose names featured on documentation and electronic records between the KZN LG & TA and/or officials, and Intaka.
8. Accompanied the SAPS investigating officer to Cape Town and reviewed the 356 files of documents seized from Intaka.
9. Reviewed the electronic data copied by the SAPS from computers seized from Intaka.
10. Examined bank accounts subpoenaed by the SAPS.
11. Reviewed documents seized from Kuboni and Shezi Attorneys.
12. Reviewed affidavits and warning statements taken by the SAPS.
13. Assisted the SAPS investigating officer with interviewing any official or any person related to any official from the KZN LG & TA, or any other third party that may have been involved in any irregular conduct or who received any irregular payments.

4.003 I am not required to and did not undertake an audit in terms of the International Standards on Auditing. The scope of my work was limited to a review of the documentary evidence made available to me and enquiries undertaken to address issues identified in the execution of the investigation undertaken. I have not verified the authenticity or validity of the records and documents provided to me, unless otherwise stated.

4.004 This report has been prepared solely for use in the criminal matter registered with the SAPS; Durban Central CAS 1538/01/2009. It may also with the prior written consent

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of the Director of Public Prosecutions be used in any civil or disciplinary proceedings that the KZN LG & TA may wish to initiate. It may not be suitable for any other purpose and it should not be used, reproduced or circulated for any other purpose without my prior written consent. It should be a condition of such consent, if given, that PricewaterhouseCoopers and myself accept no responsibility to that third party and that such third party will hold PricewaterhouseCoopers and myself harmless in respect of any consequences of such disclosure. Whether or not I have given consent, PricewaterhouseCoopers and myself will not accept liability or responsibility to any other party who may gain access to this report.

4.005 I have included information relevant to the investigation and related circumstances but cannot conclude on the completeness of such information as the possibility exists that not all-relevant information and documentation was made available to me. Any documentation or information brought to my attention subsequent to the date of this report, which will affect the findings detailed herein, will require my findings to be adjusted and qualified accordingly.

4.006 This report contains hearsay evidence based on interviews conducted with individuals and affidavits/ warning statements taken by the SAPS. I deem the aforementioned evidence to be appropriate to sketch the full picture of the allegations raised.

**5.000 Background**

5.001 During the course of an investigation conducted by PwC into allegations of tender and procurement irregularities in the Department of Health KwaZulu-Natal (Health Department) for which undue payments were allegedly made and other financial irregularities, we received information and it was alleged that Intaka Investments (Pty) Ltd (Intaka) had received an order for the supply of water purification systems to the Health Department and that a corrupt payment was made to an official. We initially investigated this matter relying solely on the documentation in possession of the Health Department and interviews and information obtained from officials of the Health Department. At this stage we were informed that Intaka was the subject of a

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criminal investigation and when we attempted to interview an employee of Intaka we were advised by their Legal Advisor that we were required to address all correspondence through him. Hence, we did not have access to Intaka's records or their employees who may have been involved in the provision of the water purification systems (plants). We were subsequently informed that the SAPS had conducted a search of Intaka's premises and had seized documentation.

5.002 Following the said investigation we issued our report dated 30 November 2009, that included the investigation and findings at that date in respect of the supply of water purification systems to the Health Department by Intaka.

5.003 We were thereafter on 9 February 2010 mandated to extend our forensic investigation into the awarding of a contract for Oxyntaka self- generating oxygen plants to Intaka and to assist the SAPS with the review of the documents and computers seized from Intaka. We have completed the said investigation; and we issued a report in this regard dated 24 May 2010.

5.004 On 4 May 2010 we were appointed by National Treasury to assist the SAPS in conducting a preliminary investigation into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN LG & TA and the Northern Cape Department of Health. The purpose thereof was to obtain sufficient evidence and information in order to prepare an affidavit for purposes of a restraint order by the Asset Forfeiture Unit (AFU) for Intaka and other identified parties. Our mandate was further extended on 2 July 2010 as previously referred to in paragraph 4.001 of this report.

5.005 My findings from the investigation conducted at the KZN LG & TA and the procurement of water purification plants from Intaka are detailed below.

**6.000 Issues addressed in my investigation**

6.001 This report focuses on the order awarded to Intaka for 20 x water purification plants by the KZN LG & TA.

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- 6.002 The report further summarises the Procurement Procedures followed during the awarding of the order in question, where these have been contravened and where collusion has taken place between KZN LG & TA Officials, suppliers and other third parties.

**C. BASIS OF INVESTIGATION**

**7.000 Execution of fieldwork and gathering of information**

- 7.001 Members of my staff have assisted me in the execution of fieldwork and gathering of information necessary to compile this report, however, where an opinion is expressed in this report it is my own opinion.

**8.000 Sources documents**

- 8.001 The information dealt with in this report was obtained from the sources listed below:

- i) Supporting procurement documentation handed to us by the KZN LG & TA.
- ii) Kreditinform Enquiries.
- iii) BAS reports.
- iv) Persal reports.
- v) KZN Procurement Act of 2001.
- vi) KwaZulu-Natal Provincial Treasury Practice Notes.
- vii) Interviews conducted with Management and staff at the KZN LG & TA.
- viii) Information received from third parties.
- ix) Interviews conducted with third parties.
- x) Documents seized by the SAPS from Intaka and Kuboni and Shezi attorneys.
- xi) Electronic records seized by the SAPS from Intaka.
- xii) An affidavit provided by Dr Savoi of Intaka to the SAPS.
- xiii) Bank records subpoenaed by the SAPS.
- xiv) Physical inspection of water purification plants.
- xv) Affidavits and warning statements taken by the SAPS.



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**D. DETAILED PROCEDURES AND FINDINGS**

9.000 The detailed procedures and my key findings are addressed below for the purchase of twenty (20) x Water Purification Systems by the KZN LG & TA from Intaka.

**KwaZulu-Natal Provincial Treasury: Delegations Framework: Practice Note**  
**Number : SCM- 02 of 2006 dated 9 February 2006**

**A1**

9.001 I wish to briefly refer to this practice note and specifically the delegation policy and Urgent and Emergency Cases.

9.002 1. Delegation Policy:

- 1.1. *With due consideration of predetermined financial limits, the general standing powers are delegated in order to expedite the process to procure goods and services, the acquisition or disposal of movable and immovable property and granting of rights. These powers, as set out herein, are delegated to bid committees and departmental officials in accordance with Treasury Regulations 16A promulgated in terms of the Public Finance Management Act, 1999.*
- 1.2. *These powers are granted subject to the provisions of any other Act of Parliament, as amended from time to time. Armaments may therefore not be acquired in terms of these delegated powers.*
- 1.3. *Delegated powers contained herein must be applied strictly in accordance with the preference points system for a decision or finalisation.*
- 1.4. *Where any doubt exists with regard to the interpretation or application of any power or condition, the Accounting Officer must be approached through the normal service channels for a decision or finalisation.*
- 1.5. *The delegations set out below serve as a guideline to assist departments in compiling their own departmental delegations. In the interest of efficient and effective acquisition, departments are to formally issue their own set of delegations.*

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9.003 *Bid Committee refers to provincial department's bid specification, bid evaluation and bid adjudication committees as defined further in the document.*

9.004 Urgent and Emergency Cases are defined as:

*"Cases are defined as urgent or emergency cases when the following criteria have been met:-*

- *The duration of invitation of bids would have a material impact on service delivery/ community/ public i.e. early delivery is of crucial importance;*
- *Resulted from natural disaster i.e. beyond human control; and*
- *Immediate action is required to avoid a dangerous or life threatening situation, misery or want.*

*Poor planning is not a justifiable cause of an emergency or urgent situation. Written motivation must be provided, detailing the reason/s as to why procurement must be done under circumstances of urgency or emergency".*

9.005 Abbreviations:

BSC: Bid Specification Committee.

BEC: Bid Evaluation Committee.

BAC: Bid Adjudication Committee.

HOD: Head of Department.

**Treasury Regulation 16A Supply Chain Management**

9.006 I wish to briefly refer to this document as it preceded the previous document  
 "KwaZulu-Natal Provincial Treasury: Delegations Framework: Practice Note Number: SCM- 02 of 2006 dated 9 February 2006" that was issued in consequence of Treasury Regulation 16A Supply Chain Management.

A2

9.007 *"Institution" is defined as a department, constitutional institution or public entity listed*

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*in Schedule 3A and 3C of the Act.*

9.008 *This framework applies to all:*

- a) *Departments;*
- b) *Constitutional Institutions; and*
- c) *Public entities listed in Schedules 3A and 3C of the Act*

9.010 *The accounting officer or accounting authority of an institution to which these regulations apply must develop and implement an effective and efficient supply chain management system in his or her institution for:*

- a) *The acquisition of goods and services; and*
- b) *The disposal and letting of state assets, including the disposal of goods no longer required.*

9.011 *The accounting officer or accounting authority must establish a separate supply chain management unit within the office of that institution's chief financial officer, to implement the institution's supply chain management system.*

**KwaZulu-Natal Provincial Treasury: Delegations Framework: Practice Note  
Number : SCM- 02 of 2005**

**A3**

9.012 I will briefly refer to this document as the procurement of the water purification plants by the Department of LG & TA commenced in 2005. The introduction commences as follows: *"The implementation of Supply Chain Management from 1 April 2005 brings about fundamental changes in the procurement process of Government"*. The remainder of the document in so far as "urgent and emergency cases" is concerned is similar to Practice Note No 2 of 2006 previously discussed by me, and is dealt with in terms of delegation 5.1. Despite this document on 13 January 2006 the KwaZulu-Natal Provincial Treasury issued a directive to all Heads of KZN Departments and the Head of the KZN Provincial Legislature. I wish to refer specifically to paragraphs 1- 3 as summarised hereunder:

**A3**

- 1) **The KZN Procurement Act 2001 as amended, together with its relevant Regulations was repealed on 20 December 2005;**

**A4**

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- 2) Any procurement process commenced with before 20 December 2005, must be finalised in accordance with the KZN Procurement Act 2001;
- 3) The commencement of procurement processes will be deemed to include all tenders advertised and requests for quotations from 20 December 2005 to 31 January 2006.

The procurement of the water purification plants by the Department of LG & TA was done initially in terms of the KZN Procurement Act 2001 and thereafter in terms of SCM Delegations that will become evident and discussed later in this report.

**KwaZulu-Natal Procurement Act No 3 of 2001**

- |       |   |    |
|-------|---|----|
| 9.013 | The purpose of KwaZulu-Natal Procurement Act No 3 of 2001 (the Act) was "to provide for a procurement system to give effect to section 217 of the Constitution and to provide for matters connected therewith". It further defines a "Central Procurement Committee" and the functions of the Central Procurement Committee are defined in section 5. | A5 |
|-------|---|----|

**Purchase of twenty (20) x water purification plants from Intaka**

**Background: Affidavit of Dr Gaston Savol**

- |       |   |      |
|-------|---|------|
| 9.014 | I firstly wish to briefly refer to Dr Gaston Savol's (Dr Savol or Savol) affidavit signed and dated 21 August 2008 and his explanations in so far as the KZN LG & TA is concerned and the role of Sipho Shabalala (Shabalala) the Head of Provincial Treasury at the time. I will again during the course of this report refer to this affidavit as it relates to specific issues investigated in detail. | B1   |
|       | 1) During the course of 2003/2004 (no specific date mentioned) with the assistance of a Mr Bagus he made contact with relevant persons within the KZN Provincial Government and Trade and Investment KZN.   | B1/3 |
|       | 2) KZN was facing formidable challenges in the provision of potable drinking water, especially at clinics and community health centres under its control.   | B1/3 |
|       | 3) The decision by Intaka to build or not to build a factory in KZN to manufacture  | B1/3 |

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water purification and treatment units and create jobs in KZN, would be based on business considerations such as the number of units ordered (*"At the time, as I can recall, there was some discussion about the possibility of 80 units for one area alone in KZN"*).

- 4) *"In addition, at this time, the question of a donation "to the party" was also raised, which I understood to refer to the ANC. As I can recall, the person who did so was Mr Sipho Shabalala (Head: KZN Treasury) ("Mr Shabalala") and I was not averse to the idea of making such a donation as is a common procedure in any country. However, I did not pursue the matter any further at the time"*. B1/4
- 5) Dr Savoi arranged a fact finding visit to South America for a delegation from KZN to view the self- generating oxygen and water purification plants, which took place from 20- 23 March 2004, and included Shabalala. Upon return to South Africa the KZN delegation indicated it was interested in both products, the key persons in the process of further discussions being Shabalala and Professor Green Thompson (HOD KZN Department of Health at the time). B1/4
- 6) *"Against this background, the KZNPG, via its Department of Local Government and Traditional Affairs, subsequently purchased 20 Wataka units from my company at a unit cost of R2,228,181.82. The total amount involved was therefore R44,563,636.40 inclusive of VAT, the relevant Departmental contract/tender number being ZNT 1426/2005LS. I have no direct knowledge of the specific procedures followed within the KZNPG in order to purchase the equipment from Intaka but I have always assumed that whatever steps necessary to be taken departmentally, were in fact taken"*. B1/5
- 7) The amount of R44,563,636.40 included the cost of equipment ex-works, excluding freight, installation, commissioning and materials. Intaka initially received an order for R43,000,000 on 15 March 2006 for 1 unit, that was subsequently changed at Intaka's request to reflect 20 units in the amount of R44,563,636.40 on 5 June 2006. The installation of the 20 units was to be "immediate" and was to take place at various municipalities as designated by the KZNPG. B1/6
- 8) *"However, the installation could not be effected immediately, apparently as a result of political and other difficulties in or in respect of the various municipalities chosen as sites for the Watakas by the KZNPG. There were also difficulties in* B1/7



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*securing our payment".*

- 9) "We have since supplied eight out of the original 20 Watakas to the KZNPG. I do not regard the fact that we received the entire payment before delivery of all 20 as meaning that we have received a pre-payment of any kind, since, by the time we were paid, the Watakas for the KZNPG had been standing for over a year at our premises in Cape Town and for which we had charged no storage fees. We had also forgone various other possible charges, which would have arisen in the course of a private sector contractual arrangement, for the sale of this sort of equipment". B1/8
- 10) The Watakas were finally launched with some publicity for the Department of LG & TA in KZN on 5 April 2008, "some two years after the initial purchase of the equipment". B1/8
- 11) "Be that as it may, when Intaka finally received payment in early 2007, I asked Mr Shabalala about the issue of the donation to the party, which had been originally raised with right at the outset of the initial discussions in KZN. He informed me that Intaka would be sent an invoice against which we should make payment. I also note that, as a general rule, we make payments for any goods or services only against invoices and that we had been informed by our professional advisers that we should always obtain documentation in support of payments". B1/8
- 12) "Subsequently, I received an invoice from a firm of attorneys called Shezi and Kuboni for an amount of R1,032,000.00 inclusive of VAT, and which invoice was subsequently paid by Intaka. I attach a copy of this invoice and the supporting Intaka documentation showing payment as GS4". B1/8
- 13) "I have no knowledge of what happened to this money once it had been paid to the attorneys and do not know whether the party in fact received it- I have no acknowledgement of this. However, I confirm that no legal services as referred to in that invoice were ever rendered to Intaka by the attorneys concerned". B1/9
- 14) "Although I acknowledge that it is incorrect to have categorised the donation as legal expenses, I am not familiar with the manner in which political donations are sourced and dealt with in South Africa. I merely responded to the directions of Mr Shabalala in this regard. I feel I should also add that Mr Shabalala was one of the more helpful officials with whom we dealt in the KZNPG and that he has never requested a personal donation for himself from me". B1/9

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**Intaka Investments (Pty) Ltd**

9.015 I determined when investigating an order awarded to Intaka by the Health Department for the supply of 2 water purification plants, that the registration number recorded on the footer of their quotation dated 2 October 2006 is 2003/021018/07, attached hereto for ease of reference. A Kreditinform enquiry determined that said registration number belongs to Intaka Holdings (Pty) Ltd. The said entity was previously known as Intaka Tech (Pty) Ltd and was first registered on 28/08/2003. The holding company is recorded as "Savoi Family Trust". The Active Principals are Dr G Savoi id 521226 0000 000 appointed on 28/08/2003 and Mr R Savoi id 810212 5000 000 appointed on 21/11/2007. In terms of the footer of the quotation the other 2 directors as at 2 October 2006 were Fernando Praderi and Clement Morris. In terms of the Kreditinform Report these 2 persons resigned as Directors, however the date of resignation is not reflected. It would appear that the entity with registration number 2003/021018/07 was known as Intaka Investments (Pty) Ltd at the date of the quotation and subsequent thereto changed its name to Intaka Tech (Pty) Ltd and then Intaka Holdings (Pty) Ltd.

B2/1-3

B3

**Skyros Medical Supplies (Pty) Ltd**

9.016 Intaka sent their quotation for the 2 water purification plants from an e-mail address of [amarcos@skyros.co.za](mailto:amarcos@skyros.co.za). I determined that A Marcos is the personal assistant of Savoi and I have conducted an interview with her during the course of investigating this matter. A Kreditinform Enquiry determined that Skyros Medical Supplies (Pty) Ltd (Skyros Medical), registration number 2004/010238/07 was registered on 20/04/2004, the Active Principals are Gaston Savoi id 521226 0000 000 and Beatrice Ntombenhle Otrina Shabalala ("Beatrice Shabalala") ID. 690119 0332 083, both appointed on 20/04/2004. I further understand that the latter is the wife of Sipho Shabalala. In terms of Gaston Savoi's affidavit the delegation to South America including Shabalala took place in March 2004; whilst Gaston Savoi and Shabalala's wife registered Skyros Medical Supplies in April 2004, one month later. Shabalala with Professor Green Thompson; the latter was the HOD KZN Department of Health and I assume had no role in the Department of LG & TA, became key persons in the

B2/1

B4

B1/4

B4/1

B1/4

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process of further discussions between Intaka and the KZNPG. Hence, the involvement of Shabalala as Head of Provincial Treasury with Intaka, and the potential conflict of interest at this early stage. A 2<sup>nd</sup> entity is registered in the name of Skyros Health that is also linked to Dr Savoi, however for purposes of this report I do not deem it necessary to refer further to Skyros Health. One of the current business interests of Beatrice Shabalala is Blue Serenity Investments (Pty) Ltd. This entity will again be referred to in more detail when discussing a payment made to "a firm of attorneys called Shezi and Kuboni for an amount of R1,032,000.00" as stated by Dr Savoi in his affidavit referred to earlier in this report.

B4/4

B1/8

**Blue Serenity Investments (Pty) Ltd**

9.017 A Kreditinform Enquiry determined that an entity known as Blue Serenity Investments (Pty) Ltd (Blue Serenity) trading as City Royal Hotel with registration number 2003/031649/07 was registered on 17 December 2003. The current Active Principals are:

B5

- 1) Dumisani Sipho Derrick Shabalala id 651019 5396 082 of 11 Bonanza Road, Pietermaritzburg appointed on 9 January 2004; and
- 2) Beatrice Octrina Ntombenhle Shabalala id 690119 0332 083 of 11 Bonanza Road, Pietermaritzburg, appointed on 9 January 2004.

9.018 One of the previous business interests of Sipho Shabalala is Salamax 1608, that is deregistered and from which he resigned. As is the case with Blue Serenity Investments, this entity will again be referred to in more detail when discussing a payment made to "a firm of attorneys called Shezi and Kuboni for an amount of R1,032,000.00" as stated by Dr Savoi in his affidavit referred to earlier in this report.

B5/4

B1/8

**Salamax 1608 (Pty) Ltd**

9.019 A Kreditinform Enquiry determined that an entity known as Salamax 1608 (Pty) Ltd (Salamax) with registration number 2006/024729/07 was registered on 10 August 2006. The current status is recorded as in the process of deregistration. Dumisani Sipho Derrick Shabalala id 651019 5396 082 of Othandweni Farm, Greytown Road,

B6

B6/6

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Pietermaritzburg is recorded as a non- active principal. He was appointed on 11 August 2006 (date of registration); and resigned on what I interpret to be 13 May 2008. This was confirmed by CIPRO

**B6/11**

**Orders awarded to Intaka and payments made by the Department of LG & TA**

- 9.020 I initially upon requesting a list of BAS payments made by the Department of LG & TA to Intaka for the purchase of 20 water purification plants determined the orders listed hereunder were issued and payments made against the said orders. I later in the investigation determined that 2 orders had preceded this, however they were cancelled and a new order number N 642517 issued. No payments were made against the 1<sup>st</sup> two orders.
- 9.021 I determined that the Department of LG & TA issued order number N 642517 to Intaka in the amount of R44,563,636.40 for 20 water purification plants on 5 June 2006. This followed a Requisition for Supplies no. B126264 issued on 15 March 2006. Intaka issued their invoice no. 253 dated 6 February 2007 for the "purchase" of 20 "Wataka water purification units model 050" in the amount of R2,228,181.82 each, totalling R44,563,636.40. They were paid R44,563,636.40 on 5 March 2007. The entries on the attached Internal Departmental letterhead will be discussed later in this report. I further was unable to determine from the invoice whether the plants had been delivered and if so where; this will also be discussed in detail later in this report.
- 9.022 Intaka received a further order number N 0755793 in the amount of R5,617,919.40 on 15 November 2006 for "balance of purchase of 20 Wataka Model 050 Plants (inclusive of VAT) @R2,447,061.79 - R2,228,181.82 x 20, supply of 20 Lots chemicals (1 month supply). The following payments were then made against the said order number N 0755793:

**C1/1**

**C1/2**

**C1/3**

**C1/4-6**

**C1/5**

**C2/1-2**

M

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|   | Invoice #   | Payment date | Payment amount ( R ) |    |
|---|-------------|--------------|----------------------|----|
| 1 | 553         | 31/08/2007   | 1,123,583.89         | C3 |
| 2 | 660         | 24/12/2007   | 1,123,583.89         | C4 |
| 3 | 697         | 01/12/2008   | 43,363.32            | C5 |
| 4 | 1913 & 1914 | 31/03/2010   | 561,791.94           | C6 |
|   |             |              | 2,852,323.04         |    |

- 1) The description of the goods/ services on invoice number 553 above is C3  
*"installation and commissioning of water purification plants"*. There are 4  
 Certificates of Acceptance" forms attached that detail the locations where the  
 plants were installed:
- i. Spekboom Waterworks;
  - ii. Greytown Water Plant;
  - iii. Bellgrade Waterworks;
  - iv. Keates Drift.
- 2) The description of the goods/ services on invoice number 660 above is C4  
*"installation and commissioning of water purification plants"*. There are 4  
 Certificates of Acceptance" forms attached that detail the locations where the  
 plants were installed:
- i. Danhauser WPP;
  - ii. Obanjeni, Mlalazi District;
  - iii. Durnacol WPP;
  - iv. Mtwalume Waterworks.
- 3) The description of the goods/ services on invoice number 697 above is: C5  
*"Electrical power installation incl all connections, cables PVC & Tracking at  
 Danhauser, Piping LDPE 4" for Durnacol"*. Hence, this was additional work  
 performed at Danhauser WPP and Durnacol WPP.
- 4) The description of the goods/ services on invoice numbers 1913 and 1914 above C6  
 is *"installation and commissioning of water purification plants"*. In terms of the  
 Intaka invoices these were for work done at sites in:
- i. Gogovuma
  - ii. Bulwer.

References in the margin refer to  
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- 9.023 Intaka received a further two sundry payments for the "rental storage costs for KZN Water Purification Plants" as detailed below:

|   | Invoice # | Payment date | Payment amount ( R ) |
|---|-----------|--------------|----------------------|
| 1 | 1912      | 30/04/2010   | 85,500               |
| 2 | 1911      | 30/04/2010   | 17,100               |
|   |           |              | 102,600              |

C7  
C8

- 9.024 Invoice number 1912 is rental for the months of October 2009 to February 2010 being 5 months @ R15,000 per month excluding VAT. Invoice number 1911 is rental for March 2010.

- 9.025 I have been provided with an updated list of BAS payments made by the Department of LG & TA to Intaka, which includes the payments referred to above annexures C1-C8 inclusive and the following additional payments that appear to be for rental (I am not in possession of the payment vouchers)

C9

|   | Invoice # | Payment date | Payment amount ( R ) |
|---|-----------|--------------|----------------------|
| 1 | 1952      | 15/06/2010   | 17,100               |
| 2 | 1991      | 30/06/2010   | 17,100               |
| 3 | 2067      | 30/07/2010   | 18,810               |
| 4 | 2107      | 15/09/2010   | 18,810               |
|   |           |              | 71,820               |

- 9.026 Thus, the total payments made to Intaka by the Department of LG & TA for the water purification plants amounts to R47,590,379.44 as summarised hereunder.

C9

|   | Date                   | Amount ( R )         |
|---|------------------------|----------------------|
| 1 | 05/03/2007             | 44,563,636.40        |
| 2 | 08/08/2007- 31/03/2010 | 2,852,323.04         |
| 3 | 30/04/2010             | 102,600.00           |
| 4 | 15/06/2010- 15/09/2010 | 71,820.00            |
|   | <b>Total</b>           | <b>47,590,379.44</b> |

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- 9.027 Gaston Savoi alleged in his affidavit that 8 of the 20 plants were commissioned at the time of the affidavit being 14 July 2008. I have been provided with 8 Certificates of Acceptance; that would indicate 8 of the 20 plants have been commissioned to date although . Mr Andre Evetts (Evetts) Manager Infrastructure Development, at the KZN Department of LG & TA Evetts has informed me that a further 2 have been commissioned i.e. a total of 10. I will refer to Evetts later in this report. **B1/7**

**Background into obtaining all relevant documentation from the Department and from the SAPS**

- 9.028 I initially received documents from the SAPS who received same from the Department of LG & TA prior to our appointment. We then requested all procurement documentation that preceded the awarding of the order to Intaka from the Department of LG & TA e.g. the specifications; tender document; tender award; and Service Level Agreement.

- 9.029 We then proceeded to obtain various documentation from the following sources, conducted interviews with officials and obtained affidavits where necessary; that will be referred to later in this report:

- 1) Development Infrastructure Component;
- 2) Legal Services;
- 3) Central Supply Chain Management;
- 4) The Office of the HOD;
- 5) SAPS seized from Intaka in Cape Town;
- 6) The KZN Department of Economic Development;
- 7) Provincial Treasury/ KZN Department of Finance;
- 8) Trade and Investment KZN;
- 9) Documents subpoenaed by the SAPS.

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**Detailed investigation into all documents received and interviews conducted**

- 9.030 We received a number of documents from the said sources and compiled a comprehensive list, in order to obtain a clear understanding of the sequence of events in terms of the documents. I deem it necessary to briefly refer to each relevant document and the content of each where applicable. All documents discussed hereunder were obtained from the sources listed above, unless otherwise stated.

**Memorandum from Sipho Shabalala to Dr Mkhize dated 9 May 2005**

D1/1-3

- 9.031 Dr ZL Mkhize (Dr Mkhize) the current Premier of the Province of KwaZulu-Natal provided a copy of the memorandum he received from Shabalala dated 9 May 2005 titled "Proposal to Supply Gas Generating Equipment and Water Purification to the Province".
- 9.032 I will not repeat the entire document but wish to refer to specific sections thereof. The introduction reads as follows:
1. *"Proposals have been received from a company in Cape Town to supply equipment for onsite generation of gas as well as equipment that purifies water at source".*
  2. *The Department of Health is piloting with the Gas Generating Equipment (Oxyntaka) at Murchison Hospital. Trade and Investment KZN has been involved with the Water Purification Equipment (Wataka) for some time.*
- 9.033 Shabalala refers to the implementation of the "Oxyntaka project" and that the "water generating unit (Wataka) has been proposed through TIK and has not really taken off". Paragraph 7 reads as follows: *"Going through communities during the pre-budget road shows we experienced first hand that communities still need water desperately. Whereas we are undergoing an exercise with Umgeni Water on the long term solution of water provisioning in the Province, we still have to contend with the fact that our communities still do not have access to clean water".*

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9.034 He made the following recommendations:

11. *It is recommended that we encourage the MEC for Health and her Head of Department to finalise the installation of the Oxyntaka at Murchison and to consider seriously the acquisition of further equipment to optimise on the benefits of the equipment.*
12. *It is recommended that an amount of R22 m be allocated from the Poverty Alleviation to provide the water generating equipment to all the municipal districts.*
13. *It is also recommended that negotiations are commenced with the benefiting municipalities on the running cost of the equipment".*

9.035 The handwritten comment by Dr Mkhize is illegible. Attached to the said memorandum is a typed note which is, according to my understanding, a typed version of Dr Mkhize's comment. It reads as follows:

*"There are communities wherein this project can be utilised for immediate benefit in provision of safe and clean water. Consider the areas of Nkandla where already a pipe has been laid down for Thukela River. There should be a way to take an offshoot to feed into the tank as a supply for villages..... Consider priority areas where this facility can effect immediate benefit".*

9.036 Dr Mkhize provided an affidavit to the SAPS attached hereto for ease of reference. He was the former Head of the KZN Department of Finance and Economic Development. He stated that the provision of clean potable water in rural areas was an issue that needed urgent attention that was identified before 2005. He confirmed that he received the aforementioned written correspondence from Shabalala in May 2005, informing him of the water purification plants which had the potential to make a significant difference to the provision of potable water. He stated further that *"It was on this basis that I supported, in principle, the procurement of mobile water purification plants"*.

E19

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**Intaka letter to Sipho Shabalala dated 27 June 2005**

**D1A**

9.037 On 27 June 2005 Intaka sent a letter titled "Wataka Transportable Water Purification Plant" to Shabalala, Provincial Treasury signed by Gaston Savoi. He quoted an amount of R1,935,720 for the supply of one (1) x Wataka 50, Transportable Water Purification Plant. The amount included VAT and Freight to Greytown. He concluded as follows: *"Awaiting your decision to issue the purchase order and we look forward to evaluating additional 10 areas"*.

9.038 I have not been able to determine why Shabalala received this quotation nor have I been provided with a request by Shabalala to Intaka for the quotation. This is the function of the SCM Component of the relevant Department. In the ordinary course of events I would expect to have found a specification document detailing the required specifications of the water purification plant that Intaka were requested to quote on. I confirm that there is no specification document in the records I examined, which included those seized from Intaka by SAPS. I previously in paragraph 9.016 of this report discussed a potential conflict of interest with Shabalala and Intaka, relating to Skyros Medical. I identified the following documents in the electronic records seized by the SAPS from Intaka that further illustrates the relationship between Shabalala and Dr Savoi and Intaka:

- 1) An e-mail from Dr Savoi to [ss75@pixie.co.za](mailto:ss75@pixie.co.za) that commences "Dear Sipho" dated 9 September 2004. It is evident from the contents of the e-mail that it was sent to Shabalala. Dr Savoi has requested a letter of referral from Shabalala to be prepared and sent to Netcare by Shabalala. Dr Savoi goes so far as to set out the wording he wants Shabalala to put in the letter of referral. D1B/1
- 2) An e-mail from Carolina Savoi of Skyros (Pty) Ltd to Shabalala dated 24 February 2005. The writer refers to Shabalala's conversation with Dr Savoi and lists a number of products that appear to be medical equipment; D1B/2
- 3) An e-mail from Shabalala to Dr Savoi dated 25 February 2005 titled "Update on Intaka Water Purification Presentation". He was responding to an earlier e-mail from Dr Savoi relating to the cancellation of a meeting with Trade and Investment KZN. The body reads as follows: *"Dear Dr Savoi. Please let me know what help I* D1B/3-4



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*can give to facilitate further discussions on the water project. I am making some discussions at Health regarding additional oxyntakas in KZN. Regards Siphso". I wish to mention that "oxyntaka's" are self- generating oxygen plants supplied by Intaka to the KZN Department of Health and Northern Cape Department of Health, investigated by me and reported on under separate reports;*

- 4) A letter from Dr Savoi to Shabalala dated 21 April 2005. The content of the letter is self- explanatory; I have already discussed Skyros Health, however the letter also refers to Goldex 264. An Experian Kredit Search Report reflects that Goldex 264 (Pty) Ltd was registered on 19 April 2004. Beatrice Ntobenhle Otrina Shabalala is the sole Principal, although the status is recorded as "De-registered". D1B/5  
D1B/6-8
- 5) An e-mail from Shabalala to Dr Savoi dated 11 May 2005 titled "Wataka". He was replying to an earlier e-mail from Dr Savoi regarding Intaka having obtained the patent for Wataka for 20 years. The e-mail reads as follows: "Well done. We have started the process to acquire the Watakas in the Province. I will brief you once I have received some responses to the letters I have written". D1B/9
- 6) A letter from Dr Savoi to Goldex 264 (Pty) Ltd for the attention of Shabalala dated 23 June 2005 relates to medical supplies. D1B/10
- 7) An e-mail from Shabalala to Dr Savoi dated 3 November 2005 titled "Wataka". The e-mail reads as follows: "Wataka Hola Amigo. Thank you for the e-mail. I have received it. Thank you also for the tie it is bright and lovely. I wish to assure you that the Province is really doing its best to ensure that by the end of the year there is real progress on this issue". D1B/11
- 8) The de- registration of Goldex 264 (Pty) Ltd is confirmed in an e-mail from Dr Savoi to various staff at Intaka, including Selwyn Solomon and Adriaan Laubscher the CFO at the time, at a much later date being 11 May 2007. This was preceded by an e-mail from Selwyn Solomon dated 10 May 2007 titled "Goldex 264 (Pty) Ltd". The body of the said e-mail reads as follows: *"The abovementioned company is owned by B Shabalala who is also the sole director. According to my understanding its sole asset is 40 Shares (40%) in Skyros Medical Supplies (Pty) Ltd which in itself is a dormant company, Please confirm that I can prepare nil tax returns for Goldex for 2006 and prior and also confirm whether Goldex is still required and whether we can transfer the shares in Skyros* D1B/12  
D1B/13

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*Medical Supplies out of Goldex. Also, I want to prepare nil tax returns for Medical Supplies for 2006 and prior. Please confirm".*

- 9.039 With further reference to the letter in question from Dr Savoi to Shabalala dated 27 June 2005, I am unable to determine why the plant was to be delivered to Greytown. Evetts was initially interviewed and he informed me that he was nominated to serve on the task team by the HOD; that will be discussed later in this report and was the project manager from the Department of LG & TA. An affidavit was obtained from Evetts. He stated that Dr Dorning of Provincial Treasury (the Head being Shabalala) approached him in his office in the latter half of 2005; he did not recall the exact date. (I determined that Dorning is now deceased). He had known Dorning for a number of years from Provincial Government. Dorning informed Evetts of twenty two (22) x water purification plants that were to be supplied to the Department of LG & TA and that he was under pressure from his principals to make the project happen. Dorning added that funds in the amount of R43 million had been allocated to the project. As he understood Dorning the matter was not getting off the ground as it involved supplying the water purification plants to Municipalities and hence the need to involve the Department of LG & TA. Dorning requested that Evetts get involved in the implementation thereof. D1A  
E1
- 9.040 Evetts agreed to get involved provided the following occurred that would ensure the Department of LG & TA was covered:
- 1) The funds of R43 million is allocated to the Department of LG & TA by Provincial Treasury;
  - 2) Provincial Treasury are responsible for acquiring a waiver of tender procedures.
- 9.041 On this basis he received documentation from Dorning, the dates of which preceded Dorning approaching him and the involvement of the Department of LG & TA. He confirmed receiving a copy of the quotation in question dated 27 June 2005. D1A
- 9.042 Evetts was not certain what the relevance of Greytown was as he is not aware that

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there was a requirement for a water purification plant in the Greytown area, and secondly there was no storage facility in Greytown, but there was a storage facility in Pietermaritzburg, if the intention was to store the plant in Greytown.

**Intaka letter to Sipho Shabalala dated 7 July 2005**

**D2**

9.043 On 7 July 2005 Intaka sent a letter titled "Request for Proposals on Wataka Equipment" to Shabalala, Provincial Treasury signed by Dr Savoi. This is approximately 10 days after the 1<sup>st</sup> quotation to Shabalala dated 27 June 2005. There is no evidence that Intaka had concluded "evaluating additional 10 areas during these 7 days. Dr Savoi referred to an e-mail dated 6 July 2005, however I have not had access thereto. He provided an introduction and listed the advantages of the Wataka. On page 6 Intaka quoted an amount of R1,965,000 ex works Cape Town excluding VAT for the supply of twenty two (22) x Wataka 50's. The said price included a generator and raw water pump, but excluded freight, civil works (if requested) and chemical products, the latter being included in the operating cost of R0.0006 per litre. Thus, the price had increased within a period of ten days and it also excluded transportation costs previously included. The delivery period was split over a period of 90 days from date of order, provided all 22 units were ordered simultaneously. The price was valid until 15 December 2005. There is no indication as to sites where the plants would be commissioned and the costs involved in transportation/delivery and the civil works. Further, there is no mention of 80 plants as alleged by Dr Savoi in his affidavit.

**D1A**

**B1/3**

9.044 The quotation is concluded as follows: *"My approach to introducing this facility in South Africa is not merely of equipment sales but goes further to investing towards creation of a manufacturing base in South Africa, and particularly in the Province of KwaZulu-Natal as I believe this is the best base to do so. As a foreign investor, I have great belief in South Africa and it's potential and I believe by investing in this manufacturing facility it could play a significant role in respect of job creation and social development in this country".*

**D2/7**

9.045 Evetts confirmed receipt of a copy of this quotation from Dorning. He also confirmed

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that there is no indication as to location of the sites where the plants would be commissioned. His own assessment of this is that KZN Provincial Treasury could not and would not have known where the plants were to be delivered and this was the reason for the price being quoted "ex- works Cape Town". Furthermore, Provincial Treasury had little or no technical staff and hence would have limited knowledge of water purification plants and the requirement for a comprehensive needs analysis prior to determining the venues/ sites where the plants were to be commissioned. He assumed that the 22 units was determined by taking ten municipalities x 2 plants each, and 2 plants for the metro.

**Memorandum from Shabalala to Dr Mkhize dated 11 July 2005**

**D2A/1-2**

9.046 Dr Mkhize provided a copy of the memorandum he received from Shabalala dated 11 July 2005 titled "Allocation of R43m towards water purification and processing plants in District Municipalities". I will not repeat the entire document but wish to refer to specific sections thereof.

- 1) In paragraph 2 the writer states the following: *"Furthermore, we have sought specific costing details from the company. These have revealed that in order to provide 22 pieces of equipment producing 50 000 litres of water per hour, the costing will be R43,230m. The details of the costing and various models are included as part of this documentation". (No explanation is given as to why the cost had increased from R22m to R43m).*
- 2) He sets out the responsibility of Economic Development and the Department of LG and TA in paragraph 3, and stated that *"The running costs relate to maintenance and service costs as well as consumables. We believe TLGA is much closer to Municipalities on the issues of service delivery and that agreement would enhance that relationship even further".*
- 3) Paragraph 5 reads as follows: *"The poverty alleviation fund caters for the funding of this type of infrastructure. We are requesting the Minister to approve that an amount of R43m be allocated to the Department of Economic*

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*Development for the purchase of water provisioning equipment. Should this equipment be a success, the municipalities should be encouraged to consider procuring further equipment from their existing budgets".*

- 9.047 Apart from this proposal from Intaka Dr Mkhize stated that he had no knowledge of the company, nor had he then or subsequently met with any of their representatives. Upon consideration of the Memo he commented that a Memo should be addressed to the MEC for Local Government and Traditional Affairs proposing that a task team be established comprising the Head of Department of the Departments of the Treasury, Economic Development and Local Government and Traditional Affairs, to investigate the proposal thoroughly. E19
- Memorandum from the Ministry of LG & TA to Gumbi- Masilela dated 26 July 2005** D3
- 9.048 A Memorandum dated 26 July 2005 was sent to the HOD Department of LG & TA, Mrs G Gumbi- Masilela (Gumbi- Masilela) from the Ministry: Local Government Housing and Traditional Affairs. Attached is a letter signed on 15 July 2005 addressed to the MEC Department of LG & TA from Dr Z L Mkhize, the MEC Department of Finance and Economic Development. In summarising the writer refers to the following: D3/1
- D3/2-3
- i. Trade and Investment KZN has been liaising with a Cape Town based company on the potential benefits which would accrue to the province from the purchase of Wataka water purification and processing plants;
  - ii. It has been established that 22 plants each capable of generating 50,000 litres of potable water per hour would cost a total of R43,230 million;
  - iii. If 22 plants were purchased it would enable two to be placed in each District municipality and the Metro;
  - iv. The lack of access to sufficient potable water supplies is a recurring theme in every impoverished rural community throughout the province;
  - v. There seems to be a huge potential for the province in the purchase of the wataka water processing plants. It is even possible that the company in question could be persuaded to relocate to KZN, given the potential for further

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export of the equipment to the rest of Africa- the economic benefits of this to the province are self evident;

- vi. It would be more than justified to fund the purchase of the equipment from the Poverty Alleviation Fund;
- vii. Any decision to proceed with the proposal would however require close co-operation and formal agreements with all the municipalities involved;
- viii. It was proposed that a team be formed of the 3 Departments involved: Treasury; Economic Development; and LG & TA.; with a view to investigating the matter further and finalising a proposal to both MEC's. Given the initial involvement of TIK it was further proposed that Economic Development should lead the process;
- ix. There is a need to finalise this proposal in the shortest time possible given the dire circumstances of communities throughout the province owing to lack of access to potable water;
- x. It would be an added benefit if the equipment could be formally handed over to the District municipalities still to be visited during the izimbizo scheduled for later in the year;
- xi. It is concluded that the proposed investigation team be immediately set in motion, provided there was Agreement between the 2 MEC's.

- |       |  |                     |
|-------|--|---------------------|
| 9.049 | Dr Mkhize confirmed that he addressed the letter dated 15 July 2005 previously discussed by me to the MEC for Local Government and Traditional Affairs motivating the appointment of the task team. He requested the investigation be finalised in the shortest possible time due to the urgency in rural areas for clean water and expected that the task team would ensure proper compliance with all procurement processes. | D3/2-3<br><br>E19/5 |
| 9.050 | Part of the attraction to Dr Mkhize, as his portfolio also included economic development, concerned Intaka's comment that it was not only concerned with equipment sales, but its approach was also concerned with playing a "significant role in respect of job creation and social development" through the creation of a manufacturing base in KZN.   | E19/6               |
| 9.051 | In an e-mail from Shabalala to Dr Savoi dated 11 May 2005 he says "we have started   | D1B/9               |

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our process to acquire the Wataka's in the Province. I will brief you once I have received some responses to the letters I have written".

9.052 Mr Michael Mabuyakhulu (Mabuyakhulu) the current MEC for the KZN Department of Economic Development and Tourism provided an affidavit to the SAPS attached hereto for ease of reference. He was the MEC for KZN LG & TA from 3 November 20004 to 11 May 2009. Given that the documents were prepared several years ago, he did not have a clear and precise recollection of the events, but endeavoured to answer questions put to him regarding specific documents, to the best of his recollection. Detailed below is a summary of the information contained in his affidavit as it related to the letter dated 15 July 2005:

H5

- 1) He confirmed receiving the letter dated 15 July 2005 from Dr Mkhize on 27 July 2005;
- 2) He had not been aware of the interaction between Trade and Investment KZN and a Cape Town based company (Intaka). He had no knowledge whether anybody else from Provincial Government was liaising with the said company;
- 3) He has no recollection as to whether any documents were attached to the letter dated 15 July 2005.

**Provincial Treasury letter from Shabalala to Gumbi- Masilela dated 31 August 2005**

D4

9.053 On 31 August 2005 Shabalala sent a letter to Ms Gumbi- Masilela and referred to the letter signed on 15 July 2005 and the establishment of the task team. The letter is self- explanatory, however I wish to refer to the following as quoted by Shabalala: "As we are now approaching mid-year in the financial year there is a considerable urgency to allocate and expend the funds in question, lest we are left with unspent funds at the financial year- end". He added: "As this project requires careful investigation and extensive consultation with the municipalities, it would be appreciated if you would update this Office as a matter of urgency as to the progress to date, if any". Ms Gumbi-Masilela subsequently nominated the Department's Mr A Evetts and Mr M Povall on 16 September 2005 to participate in the task team and

D4/1

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informed them Dr Dorning of Provincial Treasury would be in contact with them and they were requested to provide updated reports on the matter on a regular basis.

**D4/2**

9.054 I identified the following document in the electronic records seized by the SAPS from Intaka that further illustrates the relationship between Shabalala and Dr Savoi and Intaka during this period:

- 1) An e-mail from Dr Savoi to Fernando Praderi of Intaka dated 6 September 2005, the subject is "INTAKA KZN PTY". The body of the letter reads as follows: *"In a meeting with Mr Sipho Shabalala, Head of Department of the Provincial Treasury of KwaZulu-Natal we were informed that finally he sent a letter to his colleague in the Local Government Department giving her the money to order approximately 22 Watakas for KZN province, according to the studies conducted 2 years ago through TIK. A meeting was planned this week to finalise this issue".*

**D4A/1**

9.055 Evetts confirmed that he and M Povall were nominated to the task team. Evetts stated further that Povall is a Civil Engineer however he was also involved in planning and hence his nomination, whilst Evetts himself was an electrical engineer. The Department of LG & TA did not and does not have an engineer who is a specialist in water services according to Evetts.

9.056 Mr Mark Povall (Povall) a Manager Development Administration, Land Development at the KZN Department of LG & TA was interviewed and an affidavit was provided by him. He stated that he was first consulted with regard to the water purification plants when Dorning of Provincial Treasury approached their office in the latter half of 2005. The late Dorning was known to him and Dorning's wife worked in the Department of LG & TA as an Assistant Town Planner at some stage. He understood that discussions had already taken place, Intaka were looking at setting up a plant in KZN and hence the water purification plants for the Department of LG & TA. His own interpretation was that this project was "dumped on" the Department of LG & TA and a Task Team had to be urgently formed. Their task was effectively to find fairly quickly suitable locations for these plants where: the water was needed by the community; there was a raw water source of supply; and a distribution point for the

**E2**

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purified water. He added that it was not as simple as just finding 20 or 22 suitable sites as the case may be and hence the need for the plants was clearly not there or had yet to be determined.

- 9.057 Povall confirmed his nomination to the task team by the HOD. He added that he was not certain why he was nominated as he has little or no experience in water affairs; the only reason he could think of is that he has a Civil Engineering degree that the HOD was aware of. He did not however provide any reports directly to the HOD as requested by her; he reported to Evetts who assumed the lead role. As it turned out he did not contribute significantly to the project and only attended a few of the initial meetings of the task team, to be referred to later in this report. Povall concluded that his involvement thereafter was insignificant.

**Meetings of the Inter-Departmental Task Team held on 26 September 2005,  
 3 October 2005 and 7 October 2005**

**D5**

- 9.058 The Inter- Departmental Task Team formed to consider the purchase of water purification plants in District Municipalities, held meetings on 26 September 2005, 3 October 2005 and 7 October 2005 respectively. I will not repeat the entire contents of the minutes, but refer to relevant parts. It must be noted that even at this early stage the only emergency seemed to be the need regarding the funding for this project with the following being stated in the minutes: *"There was extreme urgency to finalise this project given the fact that six months of the financial year had already lapsed, the Adjustments Estimate was just around the corner, and a decision regarding the funding allocation needed to be made soon"*. A number of issues were raised under "Resolutions" on 26 September that required clarity from Intaka (referred to as Wataka) and alternative options with regard to technology available for similar water purification plants, and relative costing, availability of plants etc. These were addressed at the subsequent meeting of 3 October including:

**D5A**

**D5B-D5C**

**D5A/2**

**D5A**

**D5B**

- 1) *"Wataka has reiterated its commitment to relocating to the Province if sufficient orders are placed. BEE is to play a role here with the possibility of a local BEE partner being introduced"*;
- 2) *"In terms of economic spin-off benefits, very few jobs will be created during*

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*the implementation phase. During construction and assembly phases about 20 sustainable jobs will be created";*

- 3) *"In order to investigate alternative options with regard to the technology available for similar water purification plants it would be necessary to issue a request for proposals, DWAF will also need to be consulted for their input into this exercise";*
- 4) *Mr Maduna raised 2 possibilities in proposing a way forward:*
  - *"The DLGTA could call for proposals by way of open tender over the next month, and then allocate plants to municipalities on a relative needs basis, with MOA's being drawn up with those municipalities prepared to accept and maintain the plants; or*
  - *Funding could be transferred to municipalities in the form of a conditional grant with accompanying MOA's, and municipalities would then enter into contracts with the service provider to purchase, operate and maintain the plants.*

*Whichever option was decided on, DWAF would need to be intimately involved".*

- 5) *"Mr Naidoo highlighted the critical need for a needs analysis to precede the tender process as such information will be required in preparing the tender documents. This analysis will also provide critical information such as the location and quantity of plants needed";*
- 6) *"Dr Dorning, in proposing a way forward, requested that an urgent meeting be convened this week between the task team, Mr Andre Evetts of DTLGA and DWAF. Mr Maduna undertook to co-ordinate such meeting and to furnish DWAF with background information prior to the meeting, with Dr Dorning drawing up a proposed agenda to guide discussions. The meeting will take place in Treasury House".*
- 7) *"Dr Dorning urged, in the meantime, that preliminary work be done to produce the document to the two MEC's, with such document being finalised once the above meeting has taken place. A comprehensive document should be ready for submission to the MEC's by the end of this week or early next week".*
- 8) *"If the above meeting takes place sometime next week, there will be no need for the task team to meet next Monday morning".*

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9.059 At the meeting held on Friday 7 October 2005 (the same week as the meeting held on 3 October 2005). *Dr Dorning opened welcoming all present and extended a special welcome to Mr Badenhorst from DWAF. Dr Dorning elaborated that the project had now taken a new direction and that the point of focus would be on implementation. He explained that he had been advised that Cabinet had taken an in principal decision on the project at their Lekgotla in July this year, and that there was now considerable urgency to implement the project. The entire contents of the minutes of this meeting is significant, however I deem it necessary to specifically refer to Badenhorst's contribution as a water authority:* D5C

*"Mr Badenhorst confirmed a definite need for a solution to address the need of providing all citizens with safe, clean and potable drinking water. He however, stated that this technology did not present anything new and that several similar proposals had been presented in the past. Mr Badenhorst nevertheless considered the project proposal to be sound but flagged the following technical aspects for consideration:*

- *A reliable and sustainable source of water was a pre-requisite for installation of the purification plants as this fixture would be a semi-permanent installation;*
- *The energy requirement for operating the plants needed to be considered. He questioned whether R2m per plant was inclusive of energy generation, if not, the additional cost would need to be calculated;*
- *The plant is described as being fully automatic, this could be problematic in terms of maintenance. He expressed a preference for manually operated plants as they have proven to be more reliable and sustainable;*
- *The solution of applicability should be tested with the people on the ground. Mr Badenhorst questioned why, since the Cholera outbreak in 1999/2000, municipalities were still not using such plants;*
- *The economic development impact is to be considered since many service providers are available with similar technology. An investigation should be conducted into whether in fact any such plants were in operation in the province".*

9.060 A number of issues were raised at this meeting; and it is evident that a lot of work needed to be done. However, the meeting was concluded as follows: *"Dr Dorning* D5C/3

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*tabled a proposed document outlining the process of implementation for discussion and finalisation. He explained that this document once finalised, would be signed off by the three Heads of Department (DLGTA, Economic Development and Treasury) and forwarded to the two MEC's, Mr Mabuyakhulu and Dr Mkhize. Discussions proceeded and Dr Dorning made an undertaking to amend the document accordingly and submit it to the relevant signatories". I will refer to this document as it is the next document in terms of date sequence hereafter- it is dated 10 October 2005 (being the Monday following this meeting held on Friday 7 October 2005). There appears to have been an urgency in finalising this document, despite all the issues raised by the Task Team that were outstanding and required attention; issues that could not possibly have been resolved by Monday 10 October 2005.*

D6

9.061 Mr Makenete Maduna (Maduna) the General Manager, Urban and Rural Development of LG & TA was interviewed and an affidavit was provided by him. He stated that at the initial stages of the water purification plants project he was the General Manager, Municipal Infrastructure up until June 2008. The Senior General manager to whom he reported was Mr John Johnson, Head of the Local Government Branch. Evetts was the Manager, Municipal Infrastructure at the time and he reported to Maduna. He confirmed being introduced to the matter by Dorning as per the explanations of Evetts and Povall. He added that Dorning approached him from the perspective that the project had to happen and that Cabinet had already approved funds from the Poverty Alleviation Fund. He was part of the Water and Sanitation Committee which had been set up in the Province and he informed Dorning that he should present this to the said Committee, which he did. He also told Dorning to inform the water authorities and not to just go ahead and purchase the plants. The water services authorities were responsible for water services in the Province including District Municipalities, and not the Department of LG & TA according to Maduna. The official with whom they dealt with at the time was Mr Thys Badenhorst of the National Department of Water Affairs. I determined that Badenhorst is the Regional Manager based in KZN.

E3

9.062 Maduna confirmed attending a meeting held on 3 October 2005 as recorded in the minutes of the said meeting held at Provincial Treasury. He further confirmed the

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contents of that attributed to him and the two possibilities in proposing a way forward, however the calling for open tenders did not take place as Intaka had been appointed and the waiver would subsequently be approved by the CPC; and the Municipalities did not enter into contracts directly with Intaka for the purchase, operation and maintenance of the plants, according to Maduna.

9.063 Mr Dhanaseelan Govender also known as Vello (Govender) the Project Manager, Municipal Infrastructure Component at the Department of LG & TA was interviewed and an affidavit was provided by him. He stated that during the period 2002- 2009 he reported to Evetts. He confirmed attending the meeting of the task team held on 26 September 2005 as he was asked by Evetts to attend meetings on behalf of Evetts. He added that the minutes of the meeting in question confirmed his understanding that a Needs Analysis had still to be undertaken and that the locations for the plants had not been finalised. He further confirmed his attendance at the meeting of 3 October 2005 and the issues raised by Mr J Naidoo of KZN Trade and Industry, as previously discussed in this report. He concluded on these issues that the information obtained from the Needs Analysis was still outstanding as at the date of the meeting and still had to be attended to. I will again comment on Govender's explanation during the course of this report where applicable. E4

9.064 Mr Jonathan Naidoo (Naidoo) the former Chief Operations Officer, TIKZN, was interviewed and an affidavit was provided by him. He provided the background into how he was first introduced to Intaka, prior to KZN LG & TA engaging with Intaka and TIKZN. This commenced in a letter he first sent to Dr Savoi dated 25 June 2004 and Dr Savoi's response dated 5 July 2004. He also referred to Internal Memorandums in which TIKZN's involvement in the project was set out further. This correspondence is relevant to the relationship between TIKZN and Intaka, and is not specific to KZN LG & TA. In respect of KZN LG & TA his involvement is summarised hereunder: E5

- 1) He was copied on the letter dated 31 August 2005 from Shabalala regarding the establishment of an Inter- Departmental Task Team and confirmed the contents thereof; D4
- 2) He confirmed attending the meetings of the Task Team held on 26 September D5A,B,C

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2005, 3 October 2005 and 7 October 2005, and the comments attributed to him;  
 he was not aware of any actions that were taken as a result of his comments;

- 3) The meeting of 7 October 2005 was the last meeting of the Provincial Task Team that he attended and he is unaware of any other developments thereafter.

- 9.065 Mr Matthys Badenhorst (Badenhorst) the Regional Director, Department of Water Affairs (DWA) was interviewed and an affidavit was provided by him. He stated that Intaka is not known to him personally and he had not met anybody from Intaka as far as he could recall. He added that DWA is the custodian of water resources in South Africa and is primarily responsible for formulation and implementation of policy governing this sector. The water sector also promotes effective and efficient water resources management to ensure sustainable economic and social development. E6
- 9.066 The procurement and implementation of the twenty water purification plants under investigation did not form part of any DWA programme. He was invited to a meeting on 4 October 2005 by Maduna who is known to him and subsequently attended a meeting held on 7 October 2005 at Treasury House as requested; chaired by Doring who was also known to him. He confirmed the minutes of the meeting represents what was discussed and that attributed to him; which he discussed in more detail and which I have already referred to in paragraph 9.049 of this report.
- 9.067 Badenhorst further confirmed that it was agreed at the meeting of 7 October 2005 that a status quo report was to be obtained to justify the need for twenty or more plants in the Province. He added that this was significant as the need for the plants had as at 7 October 2005 not been justified. His involvement thereafter was minimal, although the supply of water resources is the function of DWA. He recalled that at subsequent WATSAN Committee meetings a number of objections to the proposal and concerns related to the usefulness of these plants were expressed by Municipal Engineers and Technical Experts, although he was not aware of where the plants were commissioned. He was also not aware of the status of the project.

**Memo from Shabalala and 2 others to Dr Mkhize and Mr Mabuyakhulu**

**D6**

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9.068 On 10 October 2005 a joint Memo was issued by Shabalala, Gumbi- Masilela and F Pupuma (Acting Head: Economic Development) addressed to Dr Z L Mkhize the Minister for Finance and Economic Development and Mr Mabuyakhulu Minister of LG & TA. It is titled *"Proposal to allocate R43m from the Poverty Alleviation Fund to Department of Local Government and Traditional Affairs to purchase Wataka Water Purification Plants"*. I will not repeat the entire document but wish to refer to specific sections thereof:

- 1) *An added benefit to the province in purchasing the water purification plants is that the company concerned has indicated that it would be prepared to establish a manufacturing plant in KZN if a contract of this size was concluded with the provincial government. This would result in job creation and skills transfer and would fit perfectly with the provincial economic growth and development strategy of attracting inward investment into the province*. The companies name is included in paragraph 1 as *"Intaka Investments Pty"* and the contract consists of *"22 plants"*. There is no reference to 80 plants being a requirement to set up a plant in KZN. D6/2
- 2) The Department of LG & TA made a number of commitments including: D6/1  
*"accepting responsibility for the project; conducting preliminary investigations; compiling a business plan; obtaining waiver of tender requirements approval from the CPC with assistance of Treasury; entering into a contract with the supplier to purchase 20 plants at a price of original quotation; and compiling memoranda of agreements with District Municipalities prepared to accept plants"*. The contract with Intaka was to include an agreement to relocate/ establish manufacturing facility in KZN, indicating commitment to timelines, jobs created, skills transfer etc; and contractual arrangements with District Municipalities/ Water Services Authorities for ongoing maintenance, supply of spare parts and components. The commitment from the supplier in terms of spin-off benefits, skills transfer and black economic empowerment, was further a commitment to be undertaken by the Department of Economic Development and was to be included in the contract with Intaka. D6/2-3
- 3) Provincial Treasury also made two commitments to expedite the project: D6/3
  - Transferring an amount of R43 million from the Poverty Alleviation Fund to LG



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& TA in the Adjustments Estimate for the 2005/06 financial year, subject to an approved Business Plan;

- Ensuring that LG & TA obtains CPC approval for waiver of tender procedures.

- 9.069 Evetts has in his affidavit discussed in detail the deadline dates for completion of the various phases and concluded that he was not consulted and that the dates were unreasonable and for the most unachievable. E1
- 9.070 Ms Fikiwa Pupuma (Pupuma) the General Manager, Trade and Industry, KZN Department of Economic Development and Tourism was interviewed and an affidavit was provided by her. She was the Acting Head of Department at the Department of Economic Development at the time of the Submission to the 2 MEC's being 10 October 2005. She confirmed signing the document as Acting Head of Department. She denied liaising with Intaka and stated that she had never met or spoken to anybody from Intaka. She added that Shabalala as Department of Finance was liaising with Intaka. She agreed that Intaka undertook to the establishment of a manufacturing plant in KZN; it was mentioned at a briefing session she attended with Shabalala and Naidoo of TIK when the project was initially introduced to her. Shabalala was the champion of this project and the processes according to Pupuma. Ms T Ntsalla (Ntsalla) employed at the Department of Economic Development at the time was nominated to the task team; Ntsalla reported to Mr Ranveer Persad. She did not know whether the plant was subsequently established, but indicated Persad should have received quarterly reports from Ntsalla. E7
- 9.071 I wish to refer to the minutes of the 3 meetings of the task team, which has been referred to by Pupuma; they reflect that Ntsalla only attended the meeting of 26 September 2005 and tendered her apologies for the 2 subsequent meetings held on 3 and 7 October 2005. D5A-C  
D5A
- 9.072 Mr Ranveer Persad (Persad) the General Manager, Local Economic Development, KZN Department of Economic Development was interviewed and an affidavit was provided by him. He confirmed that he reported to Pupuma during the period 2005 to 2006, and that Ntsalla in turn reported to him as Manager in the Local Economic E8

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Development component. He had no knowledge of the project and was unable to provide any additional information or documentation; the documents he had copies of were already in my possession and consisted of the minutes of the 3 meetings of the Task Team and the Memorandum dated 10 October 2005. He further was not aware of Ntsalla's involvement in the project. I was provided with a contact number for Ntsalla who has since left the Province; I understand that she may be in the Eastern Cape, however I have been unable to trace her.

- 9.073 Ms Gumbi- Masilela the current Head of Department, KZN Department of Human Settlement was interviewed and an affidavit was provided by her. She was the former Head of KZN LG & TA as previously stated. Her involvement in the matter and knowledge of relevant documentation discussed in this report is detailed below: E18
- 1) She has no knowledge of the 2 quotations addressed to Shabalala dated 27 June 2005 and 7 July 2005, or the basis upon which they were submitted to Shabalala. The first time she saw these quotations was when copies were provided to her during this investigation; D1/D2
  - 2) She first became involved in the matter when she received a Memorandum dated 26 July 2005 sent to her as the HOD Department of LG & TA, from the Ministry: Local Government Housing and Traditional Affairs. Attached was a letter signed on 15 July 2005 addressed to the MEC Department of LG & TA from Dr Z L Mkhize, the MEC Department of Finance and Economic Development; D3
  - 3) On 31 August 2005 Shabalala sent a letter to her and referred to the letter signed on 15 July 2005 and the establishment of the task team. Her understanding of this letter was that they had to spend the money that had been earmarked for poverty alleviation during the current financial year or the funds could be lost. She further confirmed that the water purification plants were urgently required to assist communities in the rural areas to have access to clean and potable water; D4/1
  - 4) She confirmed nominating 2 members of her Department to the Task team; D4/2
  - 5) On 10 October 2005 a joint Memo was issued by Shabalala, herself and F Pupuma addressed to Dr Z L Mkhize the Minister for Finance and Economic Development and Mr Mabuyakhulu Minister of LG & TA. She stated the following in respect of same: D6

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1. The Memo was prepared by the office of KZN Provincial Treasury.
2. The task team that was formed was responsible to formulate the various phases and commitments as contained in the Memo. She did not personally sit in on any of these Inter-Departmental meetings during which these phases and commitments were discussed. She was briefed on the phases and commitments by Evetts who represented the Department of LG & TA on the Inter-Departmental Task Team meetings.
3. She was unable to comment on paragraph 4 with regard to the establishment of a manufacturing plant in KZN by Intaka as she was not at the meetings in question and this falls within the area of operation of Trade and Investment KZN and the Department of Economic Development.
4. Paragraph 5. She was not aware of this specific Cabinet Resolution. Cabinet meetings are closed meetings and she would only attend a Cabinet meeting if she was required to be present. She was not party to the submission to Cabinet. She presumed that KZN Provincial Treasury was responsible for the Submission to Cabinet. Apart from the documents provided to her by Treasury and disclosed by her, she is not in possession of any documents relating to cabinet approval, nor was she at any stage provided with any.
5. It was her understanding of the Memo that the Department of LG & TA with the assistance of Treasury, was to obtain a waiver of tender requirements approval from the CPC prior to 30 November 2005 as reflected on page 3 of the Memo.
6. She noted the "Commitments by Department of LG and TA" as detailed under paragraph 8 of the Memo. She was not personally consulted with regard to the various phases and has not agreed to the deadlines for completion of the various commitments made by the Department of LG & TA as detailed in the Memorandum. She noted the deadlines, but at that stage the Department of LG & TA was not aware of the processes that would be involved in each phase.
7. She confirmed that she signed the Memo as HOD of the Department of LG & TA.

9.074 Dr Mkhize confirmed in his affidavit that he had received the Memorandum in question dated 10 October 2005 and approved the memorandum. He could not recall the date he signed it but had no reason to doubt that he had received it shortly after 10 October 2005. He repeated his understanding of a manufacturing plant in KZN by

E19

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Intaka. He expected that any contract would include counter trade undertaking i.e. the establishment of a manufacturing plant in KZN. He added further that the project was urgent for 2 reasons:

- 1) To avoid a "dangerous of life threatening situation, misery or want" as a result of water borne diseases due to unclean water;
- 2) A need to utilize allocations in the Poverty Alleviation Fund prior to the end of the financial year.

It was on this basis he approved a Submission be made to the CPC for waiver of tender requirements. He believed that prior to the CPC granting approval, it would adhere to the relevant procedures that included the testing of the market and ensuring the Department concerned was receiving value for money.

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|--|---|---|
| 9.075  | Mabuyakhulu in his affidavit confirmed receiving and signing the Memorandum dated 10 October 2005. He had limited knowledge of Intaka at the time and had not met anybody from Intaka prior to receiving the Memorandum. He does not state whether or not he has subsequently met anybody from Intaka and if yes under what circumstances. He could not comment on the issue of the added benefit of a manufacturing plant within KZN as it was not within his portfolio, but this fell under his colleague (Dr Mkhize). He understood a waiver had to be obtained from the CPC, but it this was not his responsibility.  | H5  |
| <b>Provincial Treasury letters from Shabalala to Gumbi- Masilela dated 25 October 2005 and 3 November 2005</b> |   | D7  |
| 9.076  | On 25 October 2005 Shabalala sent a letter to Gumbi- Masilela confirming Treasury's commitment of R43 million to the project from the Poverty Alleviation Fund, subject to the Business Plan being approved and a number of conditions the Department of LG & TA was committed to. Also on 25 October 2005 Dr Dorning of Treasury sent a letter to the HOD of the Department of LG & TA, attached the joint Memo dated 10 October 2005 previously discussed by me signed by the 3 HOD's. The said Memo now signed ("formally approved") by the Minister of Finance and Economic Development and Minister of LG & TA was sent by Shabalala to Ms Gumbi- Masilela and Ms F Pupuma on 3 November 2005, copied to some of members of the Inter- | D7/1-2<br><br>D7/3<br>D7/4-7<br><br>D7/8-12 |



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Departmental Task Team Department of LG & TA.

- 9.077 I identified the following document in the electronic records seized by the SAPS from Intaka that further illustrates the relationship between Shabalala and Dr Savoi and Intaka during this period:
- 1) An e-mail from Shabalala to Dr Savoi dated 3 November 2005 titled "WATAKA". D7A/1  
The body reads as follows: *"WATAKA Hola amigo. Thank you for the email. I have received it. Thank you also for the tie it is bright and lovely. I wish to ensure you that the Province is really doing its best to ensure that by the end of the year there is real progress on this issue"*.
- Submission from Gumbi- Masilela to the Central Procurement Committee dated 16 November 2005** D8
- 9.078 On 16 November 2005 Gumbi- Masilela sent a submission to the Chairperson of the Central Procurement Committee requesting a waiver of tender for the purchase of mobile water purification plants, as stipulated in the KZN Procurement Act. The background and other relevant information previously included in the joint Memo is repeated, including a Motivation and Discussion that includes *"the entire project can therefore be regarded as a pilot project, with major growth potential"* as a result of *"establishing a manufacturing plant in KZN", "job creation" and "skills transfer"* etc. D8/4  
The writer does not include the relevant delegation applicable to the waiver, but concludes: *"it is submitted that waiver of tender and the placing of an order upon Messrs Intaka Investments is the only avenue by which the equipment can be procured and payment effected, within the timeframe of this financial year"*. D8/4
- 9.079 Attached to the said submission are a number of pages signed by members of the CPC who commented as detailed hereunder where applicable, in so far as the submission for waiver of tender procedures for the purchase of mobile water purification plants is concerned: D8/5-11
- 1) The first page is blank. D8/5

References in the margin refer to  
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|----|--|-------|
| 2) | Sipho Shabalala supported the recommendation on 6 December 2005. I submit that Shabalala should have withdrawn himself from this process due to his obvious conflict of interest with Dr Savoi and Intaka.   | D8/6  |
| 3) | Dr K Mbanjwa supported the recommendation on 1 December 2005.  | D8/7  |
| 4) | Mrs C Coetzee supported the recommendation on 8 December 2005 and commented: <i>"more info on how the particular supplier was selected would be useful"</i> .  | D8/8  |
| 5) | Mr HAW Conradie supported the recommendation on 30 November 2005 and commented: <i>"I have no problem with the waiver as an urgent case but the market should have been tested"</i> .  | D8/9  |
| 6) | Mr L Moloi supported the recommendation on 2 November 2005 (I believe the month should be December) and commented: <i>"information provided not entirely satisfactory, however the need and desirability for the project implementation is admissible"</i> . | D8/10 |
| 7) | Ms F Ebrahim supported the recommendation on 30 November 2005.   | D8/11 |

9.080 Gumbi- Masilela confirmed in her affidavit that the Department of LG & TA had to apply for a Waiver of Tender as indicated in the Memo dated 10 October 2005. The matter was urgent as the need for their communities to have access to water was very critical. The Department of LG & TA could loose the allocation of R43 million from Treasury for the project if they did not utilise the amount in the said financial year. This would have a negative impact on their commitment to implement a project to give their communities access to water and hence contributed to the urgent nature of their application for the Waiver of Tender. Her understanding of a "mobile water plant" is that it can be easily moved to the area where it is needed. Evetts was responsible for compiling the application on her behalf. She confirmed that she signed the said application for Waiver of Tender on 23 November 2005. She was shown the comments made by one of the members of the CPC that the "market price should have been tested" and responded that she did not know if the market was tested.

9.081 Ms Carol Coetzee (Coetzee) the Head of Department, KZN Department of Economic Development and Tourism was interviewed and an affidavit was provided by her. She

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confirmed that during the period 2005 to 2006 she was employed by KZN Provincial Treasury as a Senior General Manager and reported to Shabalala. She also confirmed serving on the CPC, chaired by Shabalala. She referred to the application by Gumbi- Masilela dated 23 November 2005 and the waiver; however regardless of the waiver, it is the responsibility of the Applicant Department to ensure they are receiving value for money. She confirmed the "Round Robin" approval by the CPC and the comments made by her *"more info in how the particular supplier was selected would be useful"*. She stated that she made this comment as the application fell short of this and this would have been useful as it would have revealed whether other quotations had been obtained or whether Intaka were sole suppliers of the water purification plants. I will again comment on Coetzee's explanation during the course of this report where applicable.

- 9.082 Mr Hermann Conradie (Conradie) currently employed as the Acting Accountant General, KZN Provincial Treasury was interviewed and an affidavit was provided by him. He stated that he was previously employed by the KZN Department of Health in the capacity of Financial Manager during the period 1994 to 30 November 2005, at which date he went on pension. The post Financial Manager is currently known as the Chief Financial Officer. He is currently employed on a contract basis by the KZN Provincial Treasury and reports to the HOD Mr Magagula. He confirmed serving on the CPC in 2005, chaired by Shabalala. E10
- 9.083 Conradie referred to the application by Gumbi- Masilela dated 23 November 2005 and the waiver. He was also provided with a standard form that he was required to complete indicating whether he supported, did not support or abstained from making a decision in respect of the application. The form also made provision for comments by him if necessary. Upon reading the application it was evident that there was a need for the water purification plants and that the urgency related to the human factor, which is "to avoid a dangerous or life threatening situation, misery or want". The setting up of a manufacturing plant by Intaka in KwaZulu-Natal as recorded in the "Motivation and Discussion" section of the application was not in Conradie's view a reason for the urgency of the matter. He had no problem with the urgency of the matter as it related to water and it was common knowledge that the Province was

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suffering from water shortages.

9.084 Conradie then completed the attached form to support the application, signed it and dated it 30 November 2005. He confirmed that he made the following comments: *"I have no problem with the waiver as an urgent case but the market should have been tested"*. He explained further that this was not a waiver for the applicant to disregard testing the market; it was still a requirement that the Department should have determined before engaging Intaka that they were receiving value for money. It was evident that the Department had already decided that Intaka would be awarded the order. His comments were made to ensure this had been complied with, as a member of the CPC he would assume that it had been done. He also believed that a needs analysis had been done by the Department and that suitable sites had been identified in the communities where these water purification plants were to be used.

9.085 I will again comment on Conradie's explanation during the course of this report where applicable.

**Letter from SCM to Tender Award Committee Department of TA & LG dated 12 December 2005**

D9

9.086 On 12 December 2005 Mrs L Naidoo, Acting General Manager, SCM, Provincial Treasury sent a letter to the Chairperson of the Tender Award Committee, Department of LG & TA and referred to a submission in respect of the purchase of the mobile water purification plant. She stated: *"the Central Procurement Committee has by way of "Round Robin" granted approval for the waiver of normal tender procedures for the procurement of 22 mobile water purification plant through the Poverty Alleviation Fund from Messrs Intaka Investments at a total cost of R43,230,000. However, concerns were expressed that there is no problem with the waiver as an urgent but the market price should be tested"*. Mrs Naidoo when interviewed by me stated that *"round robin"* means the submission for the waiver was submitted to the individual members of the CPC who signed the attached documents as detailed in the previous paragraph above, without the CPC formally sitting. I have examined the KZN Procurement Act and there is no provision for *"Urgent"* cases, nor

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does it detail waivers in such a case. The subsequent KZN Provincial Treasury Practice Note No. 2 of 2006 however defines "*Urgent and Emergency case when the following criteria have been met:*" **A1/3**

- *The duration of invitation of bids would have a material impact on service delivery/community/public i.e. is of critical importance;*
- *Resulted from Natural Disaster i.e. beyond human control; and*
- *Immediate action is required to avoid a dangerous or life threatening situation, misery or want.*

*Poor planning is not justifiable cause of an emergency or urgent situation. Written motivation must be provided, detailing the reason/s as to why procurement must be done under circumstances of urgency or emergency". It is further my understanding that the waiver of tender procedures had to be approved by the Provincial CPC.*

**Letter from Shabalala to Gumbi- Masilela dated 27 January 2006**

**D10**

9.087 On 27 January 2006 Shabalala sent a further letter to Gumbi- Masilela that is self-explanatory. He refers to a waiver of tender approval by the CPC on 12 December 2005. Shabalala was the Chairperson of the CPC. He further referred to the slow progress "in this key poverty alleviation project" is of great concern and the need to commit the funds by end of March 2006. "The fact that only two months remain in this financial year" seems to be as important to Shabalala as "the basic needs of the affected communities". He concludes by requesting a formal progress report, including revised details and timelines of the business plan by 3 February 2006, as well as to submit regular updates on the progress (or lack of) on the revised outputs/deliverables. The said request was sent to the LG & TA's Mr Maduna by the Office of the HOD on 31 January 2006. **D10/1-2**  
**D10/3-4**

**Minutes of the KZN CPC meeting held on 2 February 2006**

**D11**

9.088 The Minutes of the KZN CPC meeting held on 2 February 2006 reflect that the CPC ratified the decision granted by way of "Round Robin" for the waiver of tender procedures, "*however concerns were expressed that the market price should have been tested*". The minutes were however only confirmed and signed on 2 June 2006 **D11/15**  
**D11/17**

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by what appears to be Shabalala. On 3 February 2006 Gumbi Masilela sent a letter to Shabalala (by hand) and referred to his letter dated 27 January 2006. She questioned whether *"the market price should be tested"* as it was not understood, and whether quotations should be obtained prior to issuing an order to Intaka. On 9 February 2006 Mr SA Mhlangu, GM SCM Provincial Treasury, attempted to clarify the waiver. He stated that the CPC had noted the urgency of the matter and granted the waiver, that the letter of approval should have read *"the market price should have been tested"* and that the invitation of quotations is not applicable to the approval. There is no doubt that this was not an *"urgent"* matter that would out way the need to obtain quotations. I have not been provided with any evidence that the municipalities required these plants; that the sites had been identified and that they were in urgent need of the plants. The key driver behind this entire process appears to be Shabalala who has already referred to has a conflict of interest when dealing with Dr Savoi and Intaka. Shabalala's office then made a similar report to Gumbi- Masilela on 13 February 2006 and stated *"it is clear that the CPC's reference to "the market price should be tested" was only meant to refer to the ideal situation, which would apply in normal circumstances where time is not an issue and where waiver of tender is not required"*. The document appears to have been signed by Dr Dorning on behalf of Shabalala. I dispute that the situation was any different to the so-called "ideal situation", the only urgency that existed was the allocation and use of the funds for the project, as sites and the communities requiring the water purification plants had not been identified. Shabalala had been communicating with one supplier only (Intaka) since at least June 2005 i.e. 6 months had elapsed before the CPC approved the waiver. It is my submission that this was sufficient time to go out to tender, or at the very least obtain three competitive quotations to test the market price. It does not make sense that there was sufficient time to form a task team, but not sufficient time to request competitive quotations.

D11/18-19

D10

D11/20

D11/21

- 9.089 Coetzee confirmed her presence at the CPC meeting of 2 February 2006. And that *"Concerns were expressed that the market price should have been tested"*. She agreed with this concern of the CPC, as she previously indicated the waiver does not override the requirement that the market price should have been tested thus ensuring the requirement of value of money has been complied with. It was also her view that

E9

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the request for clarity dated 3 February 2006 from Gumbi- Masilela should have been referred back to the CPC, however it was not done as Mhlangu and Dorning of SCM and Provincial Treasury respectively responded. She added that neither Mhlangu nor Dorning were members of the CPC and as such were not authorised to comment on how the CPC would have responded to the request for clarification by Gumbi- Masilela. Mhlangu was as a member of SCM entitled to sit in on the meetings of the CPC, but was not a member of the CPC. The minutes of the CPC of 2 February 2006 reflects further that he was also not present at the said meeting representing the Procurement Office.

D11/18-19

D11/20-21

D11

9.090 Conradie was also shown the letter dated 13 February 2006 addressed to the HOD of the Department of LG & TA, even though he had now retired and was no longer a member of the CPC. He referred specifically to the comments in paragraph 2 of the said letter. He disagreed with these comments. It was his view that the matter should have been referred back to the CPC, as the CPC would then have been in a position to stop the waiver, until the market price was tested and/or 3 quotations obtained. He concluded that there also appeared to be no reason why it was impractical or not possible to invite competitive quotations/ bids.

E10

D11/18-19

9.091 Gumbi- Masilela in her affidavit confirmed that she requested clarity on whether "*the market price should be tested*" in her letter dated 3 February 2006. When the CPC granted the approval it was not stated who specifically should undertake this task and this is the reason for her request.

E18

**Submission from Evetts to Gumbi- Masilela signed on 7 February 2006**

9.092 An undated Submission was prepared by Evetts and then signed by Maduna on 7 February 2006, addressed to the Head of Department, Ms Gumbi- Masilela titled "*Appointment of Service Providers: Management Support to the Mobile Water Purification Plant Project*". The purpose was to obtain approval for the appointment of a Service Provider to assist in the management of the mobile water purification plant project at a cost of R1 million. The responsibilities of the Department are included in paragraph 3(6) and I assume the appointed consultant would assist the Department

D12

D12/1

D12/4-5

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in meeting these responsibilities. Further, 3 service providers would be approached, D12/6  
 briefed on the assignment and be requested to submit proposals. This was approved D12/7  
 in terms of Procurement Delegation 5.1 by the HOD as recorded in a memorandum  
 to Evetts dated 10 February 2006. However, Evetts stated that this approval was only D12/8  
 for the appointment to go out to tender. This occurred however the lowest tendered  
 price exceeded R1 million and it was awarded to AB Projects. Gumbi- Masilela  
 subsequently capped the amount to be expensed and payable to AB Projects at D12/9  
 R100,000 per a letter issued by her and dated 29 May 2007. This resulted in the  
 needs assessment never being completed by AB Projects or any other independent  
 service provider.

9.093 I previously referred to the affidavit of Govender. He confirmed the Submission of E4  
 Evetts as they urgently needed to appoint a service provider to assist in the  
 management of the project, including verification and performing a needs analysis in  
 order to determine the sites where the plants were to be commissioned. He further  
 confirmed the HOD capped the amount at R100,000. This resulted in him preparing  
 a letter of award to AB Projects (on 23 July 2007) together with a "revised scope of  
 work". He was responsible for overseeing the involvement of AB Projects and also  
 received 2 reports from them that he handed over to Gumbi- Masilela. Once the  
 allocated funds had been exhausted the services of AB Projects was terminated.

**Letter from Dr Dorning to Ms F Pupuma, Acting Head, Department of Economic D13  
 Development dated 16 February 2006**

9.094 On 16 February 2006 Dr Dorning sent a letter to Ms F Pupuma, Acting Head,  
 Department of Economic Development. In paragraph 4 he states the following: *"It is  
 appropriate at this stage therefore that the Department of Economic Development  
 should commence with the process of liaising with the supplier (if it has not done so  
 already) with a view to ensuring that the commitment to establish a manufacturing  
 facility in KZN is followed through and honoured- as you know the benefit flowing in  
 the province from this inward investment and associated job creation was one of the  
 main reasons this project obtained approval from the Cabinet in the first instance".*

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- 9.095 Coetzee was not prior to being shown the letter in August 2010 aware of it, however she agreed with Doring comments and request to the said Department, and in this regard she referred back to the Application to the CPC dated 16 November 2005, and specifically paragraph 3 (4) *"the company concerned has indicated that it would be prepared to establish a manufacturing plant in KwaZulu-Natal if a contract of this size was concluded with the Provincial Government"*. She added that she has no knowledge as to whether a manufacturing plant was established in KZN by Intaka. Pupuma stated that she may have received the document but would have passed it onto Ntsalla who was serving on the task team E9
- Submission from Evetts to Manager: Assets Management dated 10 March 2006** D14
- 9.096 A Submission prepared by Mr A Evetts addressed to the Manager: Assets Management, is signed and dated 10 March 2006 by Maduna the GM Municipal Infrastructure, the purpose being to recommend an order be placed with Intaka. He has referred to the background into the matter in detail and attached relevant documentation, that I do not deem necessary repeating. I wish to refer to the following handwritten note alongside paragraph "2 (12) (b) Appointment of a service provider to support the Department, and in particular to do the investigation/ needs analysis", *"still to be finalised awaiting project brief from business unit"*. I confirm that I have not been provided with any evidence that an investigation and/or needs analysis had been completed by the Department and/or a consultant at this stage (AB Projects were only appointed on 23 July 2007). Further, the writer also recommended confirmation of the price as it differed on various correspondence. On 15 March 2006 the Department issued order number N 0495916 in the amount of R43,000,000 to Intaka for "1" water purification plant. D14/1-5  
D14/6-29  
D14/3  
D14/4  
E4/21-22  
D14/31
- Letter from Intaka dated 16 March 2006, order number N0495929 dated 11 April 2006 and a Submission from Evetts to Gumbi- Masilela dated 18 May 2006**
- 9.097 On 16 March 2006 Intaka explained the price of the goods in response to order number N 0495916 issued to them. The handwritten notes prepared by Evetts refer to a shortfall of R1,563,636.40 for 20 Units. The Department subsequently on 11 D15/1  
D15/2-3  
D15/4

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April 2006 issued a variation order; order number N 0495929 in the amount of R1,563,636.40 to Intaka. A Submission was prepared by Evetts recommending that a variation order be placed upon Intaka in the amount of R1,563,636.40, which was signed by him on 18 May 2006 i.e. appears to be after the order was issued. The document had been signed by a number of officials in the approval process, however it is concluded with the handwritten note: *"not necessary. This was superseded by an approach to the Business Unit and subsequent approach to CPC which then varied their initial approval"*. This entry was initialled by Rene Baldie, refer paragraph 9.089, and dated 7 June 2006.

D15/5-9

D15/9

9.098 Mr Rene Baldie (Baldie) Deputy Manager, Supply Chain Management at the KwaZulu-Natal Department of Co-Operative Governance and Traditional Affairs was interviewed and an affidavit was provided by him. He was the official at SCM who mostly dealt with the matter from an SCM payment perspective, but only after the Tender Board had approved the waiver. He confirmed that he made the entry on the Submission referred to in paragraph 9.086 above dated 10 March 2006: *"still to be finalised awaiting project brief from business unit"*. He did so as he was aware that Evetts was required to prepare a submission for the said appointment. Based on the abovementioned application and attached documentation SCM issued order number N 0495916 in the amount of R43,000,000 to Intaka. This order is incorrect, as would be determined later, that the quantity is listed as "1" x water purification plant only

E11

D14/3

9.099 He also confirmed receiving and making the entry on the Submission by Evetts dated 18 May 2006, which he dated 7 June 2006 and initialled same, refer to paragraph 9.087 above. The logic behind this entry will be explained in the documents discussed in the next paragraph; I will again refer to Baldie's explanation during the course of this report.

D15/5-9

**Letter from Gumbi- Masilela to the CPC dated 1 June 2006 and the resultant decisions taken by the CPC**

D16-D18

9.100 On 1 June 2006 Gumbi- Masilela requested a Waiver of Tender Procedures in her letter addressed to the Chairperson of the CPC. The document is self- explanatory

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and all other relevant documents have been attached that have previously been referred to by me. Once more in paragraph 2 (5) (e) reference is made to: *"in order to preserve the principle of establishment of an Intaka manufacturing plant in KwaZulu-Natal"*. She recommended the following:

- 1) "It is necessary to place a variation order upon Messrs Intaka Investments; D16/2
- 2) Granting of waiver of tender authority to enable orders to the value of D16/3

R44,563,636.40 to be placed upon Messrs Intaka Investments, is recommended".

She concludes as follows: *"It is submitted that waiver of tender and the placing of an order upon Messrs Intaka Investments is the only avenue by which the equipment can be procured"*. I dispute this as there was sufficient time between June 2005 and June 2006 for the matter not to be treated as "urgent" and for the matter to go out to tender, after all the amount involved was significant. On 2 June 2006 the CPC

granted approval for the expansion of the original contract amount of R43,23 million to R44,564 million to include VAT; the meeting was chaired by Shabalala and the approval signed by him. The following was also recorded: *"The CPC also requested the Department of Local Government and Traditional Affairs to pursue Messrs Intaka Investment's commitment for the establishment of a manufacturing facility in KwaZulu-Natal"*. I confirm that there is no evidence that the Department of LG & TA and/or the Department of Economic Development pursued Intaka in respect of the said commitment even although this commitment appeared to be a significant factor in the decision to approve the waiver and award the project to Intaka. On 5 June 2006 Shabalala advised Gumbi- Masilela that the CPC had granted approval for the expansion of the original contract amount of R43,23 million to R44,564 million, subject to Treasury approving the additional funding to cover VAT and that Treasury had committed the additional funding. A similar letter was sent by Mrs C Coetzee, Senior General Manager, Financial Management, KZN Provincial Treasury, to the CFO Department of LG & TA on the same day. She concluded *"the CPC also requested that the Department must pursue Messrs Intaka Investments' commitment for the establishment of a manufacturing facility in KwaZulu-Natal"*.

- 9.101 SCM received Requisition number 126264 dated 15 March 2006 in respect of 20 water purification plants from Intaka in the amount of R44,563,636.40 (the original amount was R43 million and has been deleted), together with the letter dated 5 June

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- referred to Mr Evetts on 7 June 2006 as per the handwritten note appearing at the bottom of the letter. On 4 July 2006 Mr Evetts received a list of 20 sites where the plants were to be commissioned from the Office of the HOD. On 7 July 2006 Intaka sent a further letter for the attention of Mr Baldie and attached a "Supplemental Sale Agreement", attached for ease of reference. This document was received by Mr Hein Kuhn, Manager Legal Services, he then sent an e-mail to Evetts on 24 July 2006 and requested copies of "an agreement that is already in place" and "our existing agreement" as quoted by Intaka. I have no knowledge of any such formal/ official agreement. Following the above, Mr Kuhn received a fax from Eisenberg and Associates Attorneys at Law on 31 July 2006 and attached a copy of the letter from the Department dated 6 June 2006 and a copy of official order number N 642517 in the amount of R44,563,638.40. I understand based on Mr Kuhn's affidavit that this was evidence of the "existing agreement". During the period 31 July to 28 August 2006 there was various correspondence between Mr Kuhn and Evetts with regard to the Agreement.
- 9.105 Gumbi- Masilela in her affidavit confirmed that she provided Evetts with the list of sites dated 4 July 2006. She added that the list was compiled in consultation with the MEC regarding rural traditional community circumstances and water needs, and their expressions to the MEC. She further stated that the list was not final and it kept on changing due to the difficulty in identifying water sources in the rural areas in question. I submit that these comments by Gumbi- Masilela are indicative of the lack of planning in this project that was evident from the outset.
- 9.106 Ms Nicky Brown previously known as Nicky Shaw (Shaw), Assistant Manager, Municipal Governance, KZN Departmental of Co- Operative Governance and Traditional Affairs was interviewed and an affidavit was provided by her. She was the PA to Gumbi- Masilela during the period September 2000 to June 2010 i.e. the entire period of the water purification plant project. She had limited documentation apart from a few electronic records, as the file initially obtained by the SAPS from the HOD and handed to me, was the file maintained by the ex- HOD's office. She confirmed her involvement in documentation containing her name. She further added that she did not have access to Gumbi- Masilela's official e-mails as the latter dealt with this

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- herself. She confirmed compiling the letter to Evetts dated 4 July 2006 where Gumbi-Masilela listed the venues where the 20 "tanks" (plants) would be commissioned. She stated that she recalled Gumbi-Masilela had a meeting with Mr Mike Mabuyakhulu the previous MEC and the list was handed to her after this meeting. D19/2
- 9.107 Mr Karl- Heinz Kuhn (Kuhn) Manager Legal Services, KZN Departmental of Co-Operative Governance and Traditional Affairs was interviewed and an affidavit was provided by him. He stated that he first became involved in the matter when Intaka started demanding payment in the amount of R44 million and the letter from them dated 7 July 2006. At this point in time he was Manager Legal Services for the Department of LG & TA and reported to the HOD. Prior to this he had no knowledge of the procurement of the plants or any agreement entered into between the Department and Intaka. At this point in time he also received the documentation referred to above from Intaka's attorneys, and with the assistance of Evetts started with the process of compiling a service level agreement. I will again refer to Kuhn's affidavit during the course of this report where necessary. E13  
D19/3
- 9.108 Baldie confirmed referring the Intaka letter of 6 June 2006 to Evetts and that he made the relevant entry thereon on 7 June 2006. E11  
D19/1
- Letter from Intaka to the Department of LG & TA dated 11 July 2006** D20
- 9.109 Intaka sent a letter dated 11 July 2006 to the Department of LG & TA for the attention of Baldie informing him that the plants were ready to be collected by the Department. Baldie stated that he referred this to Evetts as it was not his responsibility.
- Letter from Gumbi-Masilela to Shabalala dated 1 September 2006** D21/1-2
- 9.110 On 1 September 2006 Gumbi-Masilela sent a letter by hand to Shabalala. She referred to the allocation of R43 million from the Poverty Alleviation Fund and a further application for additional funds of R1,563,636.40. She further stated it has become evident that *"the initial negotiations, quotation and budgetary allocation, to which this Department was not party, failed to recognise that the price quoted was*

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*ex-works, Cape Town. Hence the price did not include the following items:*

- 1) *Transportation and delivery of plants ex Cape Town to designated sites within KwaZulu-Natal;*
- 2) *Site preparation, primarily the construction of re-enforced concrete plinth capable of bearing the load of the plant and it's water content;*
- 3) *Plant installation (as opposed to assembly). Installation means the connection of the purification plant into raw water supply and to a storage facility of water reticulation network"*

- 9.111 She further "formally requested that additional funds be identified and allocated to Budget Vote 11, in the current financial year, in the amount of R5,000,000". It is evident that Gumbi- Masilela has distanced herself from the initial negotiations, quotation and budgetary allocation; I have determined that Shabalala was involved in the above processes.

**Letter from Intaka to Evetts dated 6 September 2006**

**D22/1-3**

- 9.112 On 6 September 2006 Intaka sent a letter to Evetts and referred to an e-mail dated 4 September 2006 and a subsequent telephone conversation with Dr Savoi. Intaka in this letter has informed the Department of LG & TA of additional costs in respect of Installation and Delivery not previously included in the price according to Intaka. These costs amount to an additional R192,000 per Unit excluding VAT and are dependent on the specific circumstances regarding each site. This is once more indicative of the poor planning and confirmation of the total costs to the Department beforehand. Intaka further referred to monthly ingredients of approximately R54,400 plus VAT per plant that according to their understanding must be covered by each municipality. I cannot determine where they obtained this "understanding" from as I am not in possession of any documentation where the municipalities had agreed to this. They further refer to a target date to start delivery of beginning October 2006.

**Letter from Intaka to Evetts dated 11 September 2006**

**D22/4-5**

- 9.113 A 2<sup>nd</sup> letter from Intaka to Evetts is dated 11 September 2006, in which they propose

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supplying 18 plants (as opposed to the original 20 ordered) to remain within the order amount and conclude: *"we would then wait a second order which would cover the balance of the remaining 2 Wataka 050 units from the first order, and would have the option to include perhaps an additional 8 or more units based on your comments during your visit to Cape Town"*.

9.114 Evetts and Maduna confirmed they had visited Intaka in Cape Town. Maduna stated that he did not recall discussion with regard to additional units as they in any event were trying to sort out the 20 plants that had already been ordered, let alone a further 8. Evetts disputed there was any official agreement or authority to procure an additional 8 units in the future. He added that they had purchased 20 units and their priority was with these 20 units, and not any additional units.

9.115 I identified the following document in the electronic records seized by the SAPS from Intaka that further illustrates the relationship between Shabalala and Dr Savoi and that Shabalala was being kept informed of the status of the project:

- 1) An e-mail from Dr Savoi to Shabalala dated 30 August 2006 where he attached a report of the visit by KZN representatives. The attached Intaka Internal Memo refers to a visit by Evetts and Maduna on 28 August 2006. It is evident from this Memo that the discussions related to who Intaka were and what exactly the Wataka product was and hence Evetts and Maduna's first engagement with Intaka and knowledge of the product. Significantly in the 4<sup>th</sup> last paragraph on page 2 of the Memo the following is stated: *"The project manager would need to come to Cape Town and meet with Intaka and see the facilities at Grotto"*. I will later in this report refer to an entity known as Grotto and their role in the manufacture of water purification plants for Intaka.

D22A/1

D22A/2-3

**Submission from Evetts to Gumbi- Masilela dated 10 October 2006 and letter from Gumbi- Masilela to Shabalala of the same date**

D23

9.116 Evetts prepared a Submission addressed to Gumbi- Masilela, which contains 2 signatures dated 10 October 2006. The purpose was to recommend the cancellation

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of the existing order with Intaka and the issuing of a new order, as a result of the additional R5,617,919.40. The following handwritten note has been made by Johnson alongside his signature: *"As I was not involved in the process of acquiring these plants it is difficult to recommend. I however have the following questions: (1) If plants are to be manufactured in KZN why transport of plant costs, (2) Are we sure that the area reflected in par 3 (11) have raw water sources, pure water storage and reticulation systems in place. I would suggest that the DC's confirm the above to avoid embarrassment after delivery"*.

D23/5

- 9.117 Attached as annexure A is a letter from Gumbi- Masilela sent by hand to Shabalala dated 10 October 2006.. The letter is similar to that sent on 1 September 2006, however she now referred to a quotation obtained from Intaka (not attached to the copy in my possession). In paragraph 4. (7) she states the following:  
*"During the project scoping last year, it is understood that purchase of the 22 units was envisaged. It is believed that one of the fundamental principles of the negotiation with Messrs Intaka Investments was that company's establishment of a manufacturing facility in KwaZulu-Natal. This was only viable if an order for a minimum of 20 units was received by Intaka Investments"*.  
 D23/6-9/  
 D21  
 D23/8
- 9.118 She continues in paragraph 4. (8) that: *"in order to preserve the principle of establishment of an Intaka manufacturing plant in KwaZulu-Natal, as discussed in paragraph 4 (7) above, an additional R5,617,919.40 be required for three plants. In the interim, 17 plants will be purchased"*.  
 D23/9
- 9.119 She further *"formally requested that additional funds be identified and allocated to Budget Vote 11, in the current financial year, in the amount of R5,617,919.40"*.  
 D23/9  
 Evetts informed us that the said letter was not submitted to Treasury in terms of his understanding and the additional R5,617,919.40 was obtained internally by the Department. This was confirmed by Baldie.
- 9.120 Also attached to the Submission is a letter from DA Beykirch to the Deputy Manager Assets management dated 12 October 2006, requesting Wilson to draw up an office comment (Wilson will be referred to below). I determined that Baldie received this  
 D23/10

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document initialled it and requested Wilson to comply. Wilson compiled the said Office Comment on 26 October 2006. Baldie then made an entry alongside the space provided for Manager: Assets Management on the approval sheet: *"The Assets Management Unit cannot comment on the funding aspect. Comments have been furnished iro the procurement aspect. See comments dated 26-10-06"*. Baldie was referring to Wilsons Office Comment. Baldie signed and dated the entry 27 October 2006. Baldie has included this information in his affidavit.

D23/11

D23/12

- 9.121 Mr John Johnson (Johnson) Manager Legal Services, KZN Departmental of Co-Operative Governance and Traditional Affairs was interviewed and an affidavit was provided by him. He decided not to recommend or not recommend the Submission to recommend the cancellation of the existing order with Intaka and the issuing of a new order, as a result of the additional R5,617,919.40. He then made the relevant entry, dated and signed the form on 10 October 2006. He added that he made the said note in respect of the manufacturing plant in KZN, as it had been included in Evetts Submission in February 2006. Further, he was aware that there was also still an issue with identifying suitable sites and proper planning beforehand, hence his 2<sup>nd</sup> point in the entry he wrote. He understands the Submission in question did not proceed further and he does not know if anybody took cognisance of his concerns. Johnson did not play any significant role in the project thereafter until a meeting of 4 February 2008 to be discussed later in this report

E14

D23/5

D12

**Submission from Evetts to Gumbi- Masilela dated 2 November 2006**

D24

- 9.122 Evetts prepared a Submission addressed to Gumbi Masilela which is signed and dated 2 November 2006 by him. The purpose was to recommend the issue of a 3<sup>rd</sup> order to Intaka, based on the additional costs as disclosed in Intaka's letter dated 6 September 2006. Annexure B to the Submission is a document dated 27 October 2006 from Lionel Wilson to Maduna which provided information on *"the most expedient process of finalisation of the orders"*. He sets out in this letter to explain the value of the 3<sup>rd</sup> order in the amount of R5,617,919.40 and what services will be provided for the said additional amount, and a further R3 million for the Municipalities to finance the cost of chemicals for a further 2 months. In the space provided for the

D24

D24/1

D24/9

D24/4

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signature of the Manager: Assets Management the following has been written: "absent on vacation leave" and refer to e-mail as annexure B for comments". It is dated 6 November 2006. The Acting CFO has also signed the Submission, whilst the space provided for the signature of the Head of Branch: Local Government (Johnson) is blank. Gumbi- Masilela signed and dated the Submission on 11 November 2006, with the following comments: *"the three million rands will be a transfer payment to the municipalities and should not be used for chemicals"*.

- 9.123 Baldie confirmed that a request was made for Wilson to prepare the aforementioned Annexure B that was used for the drafting of the Submission by Evetts. He also confirmed endorsing the Submission *"absent on vacation leave, refer to e-mail Annexure B for comments"* and dating it 6 November 2006. His immediate supervisor Des Baykirch was on leave at the time. E11  
D24/9  
D24/6
- 9.124 Mr Lionel Wilson (Wilson) Assistant Manager, Supply Chain management, KZN Departmental of Co- Operative Governance and Traditional Affairs was interviewed and an affidavit was provided by him. He confirmed preparing the "Office Comment" document on 26 October 2006 and Annexure B on 27 October 2006 relevant to the Submissions discussed above. I will again refer to Wilson's explanation later in this report where applicable. E15  
D23/11  
D24/9
- Requisition in the amount of R5,617,919.40, official order number 0755793 and a Letter from the Head Department of LG & TA to Intaka dated 17 November 2006 D25
- 9.125 Following the approval of the Submission for a third order to be issued to Intaka, requisition number B 218284 was approved by the HOD on 11 November 2006, order number N 0755793 in the amount of R5,617.919.40 issued to Intaka on 15 November 2006 and a letter from the office of the Head of the Department of LG & TA was addressed to Intaka informing them of the award of the order on 17 November 2006. The content of the letter is self- explanatory: Intaka were provided with a further order number N 0755793 in the amount of R5,617,919.40 including VAT. It is my submission, which was previously questioned by Johnson, that the D24  
D25/1  
D25/2  
D25/3

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transport costs was questionable when it was the understanding that the plants would be manufactured in KZN when the manufacturing plant was established in KZN. The CPC had interpreted this as such and they had not been informed of additional costs associated with transport and commissioning.

**E-mail prepared by Wilson dated 1 December 2006**

- 9.126 On 1 December 2006 an e-mail was prepared from Wilson's computer but in the name of Baldie. It referred to a discussion between Baldie and Kuhn and thereafter with Evetts. It related to the Agreement/ Contract with Intaka, and information that needed to be included in the Agreement. I previously reported that Intaka had informed the Department of LG & TA that the plants had been manufactured by Intaka and were ready for delivery on 6 June 2006 at which point Kuhn became involved in the project and again on 11 July 2006 Intaka informed the Department of LG & TA that the plants were ready for collection. The discussion referred to in Wilson's e-mail related to what was required to be done by the Department to ensure the contract was compiled in the interests of the State. I determined that the Contract would be dealt with by Kuhn in consultation with Evetts, and SCM were providing support only and advising from a procurement perspective, and hence Wilson's e-mail.
- D26  
D19  
D20
- Documentation from Gumbi- Masilela to Maduna and Evetts dated 12 December 2006 and Submission for part payment to Intaka**
- D27.
- 9.127 On 12 December 2006 Gumbi- Masilela sent an internal letter to Maduna and Evetts. She referred to an attached a list of locations for the plants signed by Mr MA Nkosi on 27 November 2006. This list comprising 22 plants differs to the list recorded in the Memorandum signed by Evetts on 2 November 2006 containing 20 plants and to that compiled by Gumbi- Masilela in her letter to Evetts dated 4 July 2006. There is further no evidence that it had subsequently been determined that these plants "have raw water sources, pure water storage and reticulation systems in place" and that this was confirmed by the relevant DC's, as recorded and questioned by Johnson on 10 October 2006. The above situation reflects on the failure to perform a comprehensive
- D27/1  
D27/2-3  
D24/3  
D19/2  
D23/5

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needs analysis.

- 9.128 Gumbi- Masilela in her affidavit confirmed receiving another list that contained different allocations from Mr Nkosi, presumably due to the difficulties experienced in identifying suitable sites and forwarded same to Evetts. E18  
D27/2-3
- 9.129 Mabuyakhulu in his affidavit noted the letter of 27 November 2006, but could not recall the meeting of 9 June 2006 referred to in the said letter. The sites were identified based on the needs of the communities; this was determined by their own observations or from information and representations received from the rural communities. H5  
D27/2-3
- Submission from Evetts to Gumbi- Masilela dated 13 December 2006**
- 9.130 Evetts prepared a Submission signed by Maduna on 13 December 2006. The purpose was to obtain authority to make a part payment to Intaka in the amount of R44,563,636.40. The HOD did not approve the recommendation after the Submission was submitted to all relevant stakeholders and she made the following entry: *"what are we paying for I thought we agreed on milestones"*. Also attached as annexure A was a letter from Intaka to Evetts dated 12 December 2006 and their invoice number 263 dated 11 December 2006 in the amount of R44,563,636.40. An e-mail was then prepared by Wilson on 18 December 2006 to Evetts amongst others including Baldie, that the HOD had not approved the recommendation. D28/1-5  
D28/6-8  
D28/10
- 9.131 Gumbi- Masilela in her affidavit confirmed that she did not approve the said Submission and making the hand written note in question. According to her initial understanding they had agreed to pay Intaka once the water purification plants were delivered, installed and in working order. It was evident from the Submission by Evetts that although the water purification plants were manufactured and ready for delivery the Department of LG & TA had not received the units and hence they could not pay for goods that were not delivered. E18/9
- 9.132 Gumbi- Masilela added that Intaka were demanding payment from the Department of E18/9

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LG & TA and requested the Department to pay for storage fees of the water purification units if the Department did not pay for the units that were ordered. They had at the time not entered into a formal agreement with Intaka and she instructed Mr Kuhn, Manager of Legal Services of the Department of LG & TA, to facilitate the legal process and to draft an Agreement between Intaka and the Department of LG & TA. She also instructed Mr Kuhn to visit Cape Town to personally verify that the manufacture of the twenty (20) x Wataka units had been completed.

**Submissions from Evetts to Gumbi- Masilela dated 12 December 2006 and 18 January 2007** **D29-D30**

- 9.133 Evetts also prepared a Submission (recovered by him from his electronic records) that he marked 12 December 2006. The document provides for *"a progress report on the supply, delivery, assembly, installation and commissioning of twenty mobile water purification plants"*. In paragraph 2 (5) he lists the location of the 20 plants, that is the same as that in the Memorandum dated 2 November 2006. In paragraph 3 (2) he further explains that the sites of the plants as per paragraph 2 (5) are not the same as that from the Ministry in the letter dated 27 November 2006, however he quantifies this in paragraph 5 *"As per the discussions with the Head of Department today, the following is confirmed"*: (a) *"as this project is a Ministerial intervention, plants will be installed at the sites as confirmed by the Ministry in their letter of 27 November 2006 Consensus with the Water Services Authority is not a pre- requisite"*. Evetts stated that he recalled having a telephonic discussion with Gumbi- Masilela prior to compiling this Memorandum. She told him somewhat crudely to proceed irrespective of the Water Services Authority. Based on this instruction he included it in the Memorandum. He concludes that *"the project cannot be completed before June 2007. This was based on consensus re siting of November 2006. As illustrated above, this has been delayed"*. **D29/1-18**  
**D24/3**  
**D27/2-3**
- 9.134 Evetts added that this entire document is in his view important as it reflects on the history and more significantly the status of a project that was deemed to be urgent, however 1 year after the waiver had been authorised by the CPC not 1 of the plants had been delivered and commissioned. Paragraph 2 (8) explains in detail the issues **D29/4**

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surrounding efforts to secure an agreement with the recipient Water Service Authority Municipalities and concerns raised by the 3 municipalities worst affected by the ongoing drought; including:

- the proposed siting did not conform to their own assessment of community needs;
- the existence of water supply already at some of the proposed sites; and
- the non- availability of raw water source at some of the proposed sites.

9.135 Evetts prepared a subsequent Document (recovered by him from his electronic records) that he marked 18 January 2007. The document provides for "*a progress report on the supply, delivery, assembly, installation and commissioning of twenty mobile water purification plants*". This document is an update of the previous progress report dated 12 December 2006. He further expanded on the 2 orders in respect of costs for the VAT in the amount of R1,563,636.40 and other associated transportation and delivery, site preparation and plant installation in the amount of R5,617,919.40, and provides a total budgetary allocation to the project of R50,181,555.80. D30  
D29

**Visit by Kuhn to Intaka on 6 February 2007** D31

9.136 On 2 February 2007 Kuhn sent a letter to Eisenberg and Associates advising of his visit to Cape Town on 6 February 2007 to finalise the Agreement and to physically verify that the manufacture of the 20 Wataka plants had been completed. On 5 February 2007 Kuhn sent Gumbi- Masilela an e-mail and attached the amended agreement that he had prepared as instructed for his discussions with Eisenberg on 6 February 2007. He referred to the changes he had made and that he was to view the completed units as instructed. On 7 February 2007 (the dated is recorded as 7 February 2006, however it is evident based on the other documents and content of the document itself that the year is 2007) Kuhn sent a Submission to Gumbi- Masilela. He referred to his visit to Cape Town on 6 February 2007 and concluded that Intaka had manufactured 95% of the units purchased. The Agreement had been signed by Dr Savoi. He provided Gumbi- Masilela with 2 copies of the Agreement for her signature and an invoice dated 6 February 2007 "for the purchase of the units as D31/1-2  
D31/3-4  
D31/5-6

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- agreed". The said invoice has already been referred to in this report; the purchase of 20 Wataka water purification units model 50 amounting to R44,563,636.40 inclusive of VAT. Kuhn confirmed in his affidavit his visit to Intaka as instructed by Gumbi-Masilela and the content of his Submission to her. **C1/3**
- 9.137 Gumbi- Masilela in her affidavit confirmed that she received the Submission from Kuhn dated 7 February 2007, the contents of which are self-explanatory. Dr Savoi has signed the Agreement and a copy of the co-ordinates was attached to the agreement. It was agreed that Intaka would commence site preparation on 12 February 2007 (par 3.1 of the said agreement). She signed the Agreement based on Kuhn's verification of the plants and the motivation he prepared as contained in his Submission that he addressed to her. **E18/9**  
**D31/5-6**
- Agreement between the Department of LG & TA and Intaka dated 9 February 2007** **D32**
- 9.138 The Agreement referred to by Kuhn was entered into between the Department and Intaka for the supply of twenty Wataka Model 50 Water Purification Units in the amounts of R44,563,636.40 and R5,617,919.40 for the "services" as defined in the Agreement, which was signed by Gumbi- Masilela on behalf of the Department on 9 February 2007, following Dr Savoi signing same on 6 February 2007 when Kuhn visited Intaka in Cape Town. Reference has been made to an Annexure A, however there are 2 attachments to the copy in my possession; the 1<sup>st</sup> page has been deleted and dated 6 February 2007, whilst 10 "place names" of the 20 "final locations" has been provided on the 2<sup>nd</sup> page. In terms of the said Agreement Intaka will commence site preparation and delivery, installation and commissioning of the plants on 12 February 2007 and the Department will inspect the installation sites on 16 February 2007, to ensure that the services have commenced. I wish to refer to the payment procedure as detailed in clause 5.2: in respect of the purchase price, "upon verification of the completed manufacture of the product". Ordinarily the Department would only pay for goods upon delivery, as previously stated by Gumbi- Masilela in her affidavit, i.e. in this case upon delivery of the plants by Intaka to the sites in question and not the manufacture of the plants only prior to delivery. There is no **D32**  
**D32/3-4**  
**D32/9**  
**D32/4**  
**D32/10-11**  
**D32/4**  
**D32/5**  
**E18/9**

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reference to the establishment of a manufacturing plant by Intaka.

**Payment to Intaka in the amount of R44,563,636.40 on 7 March 2007**

**D33**

9.139 On 28 February 2007 an Internal Letter marked "Urgent" was sent by Beykirch to Baldie titled "Payment to Intaka: R44,563,636.40" that contained the following note: *"The HOD has today directed that the account be paid. She has also directed that the BU must sign off the invoice re- services rendered. Please proceed"*. Baldie confirmed he received the said document and instruction to pay. He initialled the document and dated it 2 March 2007 acknowledging receipt thereof. On the same day he made an entry thereon and forwarded it to one of his colleagues Mrs Snell for payment to be processed urgently as instructed. A BAS printout reflects that payment was made to Intaka on 2 March 2007. Hence, payment had been made *"upon verification of the completed manufacture of the product"* by Kuhn and in terms of the Agreement.

9.140 The SAPS subpoenaed Intaka Investments Standard Bank account number 071878890 held at Claremont, Cape Town. Bank Statement number 42 reflects that R44 563 636.40 was received on 5 March 2007 from *"Dept of Local GVT & Tradition."*

**D33/3**

9.141 Gumbi- Masilela in her affidavit confirmed that she authorised the payment to Intaka based on the Agreement entered into between Intaka and the Department of LG & TA following Kuhn's Submission dated 7 February 2006.

**E18/10**

**D32**

**D31**

9.142 Desmond Beykirch (Beykirch), Manager, Human Capital Development, Department of Co- Operative Governance and Traditional Affairs was interviewed and he provided an affidavit. He first became involved in the project in approximately November 2005 when he was the Caretaker Manager at SCM and reported to the CFO at the time. Baldie was subordinate to him and as such reported to him. His understanding of the matter, is that the procurement of the water purification plants from Intaka was initiated by and came from Provincial Treasury. He added that the SCM Component of the Department of LG & TA was not involved in the initial

**E16**

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procurement process, because had they been involved they would have insured the matter went out to tender. In this instance the waiver for tender was approved. He confirmed his involvement from an SCM perspective and referred to documentation in this report that he personally was involved in. Baldie was the official within SCM who was more involved in the matter and thus had more information that has been included in his affidavit.

9.143 I identified the following documents in the electronic records seized by the SAPS from Intaka that further illustrates the relationship between Shabalala and Dr Savoi during the period in question not related to his duties as Head of KZN Provincial Treasury:

- 1) An e-mail from Peter Laithwaite to Dr Savoi dated 22 May 2007; the body reads as follows: *"Our client, Mr DSD Shabalala has requested, based on a discussion that he has with you, to send the business plans and documents relating to the City Royal Hotel. Attached, please find the following:*
  1. *Business plan for the City Royal Hotel.*
  2. *April 2007 Management accounts;*
  3. *Balance sheet as at April 2007;*
  4. *A cash flow model over the anticipated period of the loan payment"*.

D33A/1-2

Dr Savoi acknowledged receipt thereof on 30 May 2007. I previously referred to Blue Serenity trading as City Royal Hotel and the link to Shabalala.

B5

- 2) An e-mail from Dr Savoi to Shabalala dated 30 October 2007 relates to a business opportunity being a 3,000 ha ranch located 20 km outside of Pietermaritzburg. I have not investigated the aforementioned e-mails in any detail, the reason I have raised same is merely to reflect on the relationship between Dr Savoi and Shabalala.

D33A/3-5

9.144 I have been provided with very little documentation and information as to what transpired between 7 March 2007 (payment to Intaka) and 6 February 2008 to be discussed in paragraph 9.145 below. Evetts in his affidavit stated the following: *"During the subsequent period, throughout 2007, intensive investigations were carried out, to determine appropriate sites for the plants, taking cognizance of*

D33

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*accessibility (access to site by low bed truck, mobile crane), availability of sufficient raw water and electricity. Many of the predetermined sites proved to be un-workable and a substantial amount of re-planning, re-engineering and additional investigations (including further site visits) was necessary". I previously referred to the role of AB Projects in the water purification project within the Department of LG & TA, which occurred during the period August to October 2007.*

**Letter from Department of LG & TA to Intaka dated 6 February 2008**

**D34**

- 9.145 On 6 February 2008 Johnson, Acting Head, Department of LG & TA sent a letter to Intaka and referred to the Agreement between the 2 parties and a meeting between Intaka and Departmental Officials on 4 February 2008. It is evident that there were a number of issues subsequent to the signing of the Agreement:
- 1) Intaka had been paid in full for the plants (referred to as Units), although not all plants had been delivered;
  - 2) Intaka had been paid for a portion of the services notwithstanding the fact that the services had not been completed as envisaged in the Agreement;
  - 3) At all times the services included the installation and commissioning of the plants;
  - 4) At no stage was any additional cost to the Department associated with the commissioning of each unit contemplated;
  - 5) The Department cannot accede to any further costs associated with the commissioning of the plants;
  - 6) The Department requested an action plan for the installation and commissioning of the plants, at the sites agreed upon between the parties, by no later than 15 February 2008, that must indicate that all units are to be installed and commissioned by no later than 31 March 2008;
  - 7) "The purchase of the 20 Watika units was conditional upon the establishment of a facility to manufacture the plants in KwaZulu-Natal, and it was on this basis that the KwaZulu-Natal Executive Council approved the purchase of the units on an emergency procurement basis, without obtaining comparative quotations from other suppliers of a similar product";
  - 8) As the Executive Council required a progress report on the establishment of the manufacturing plant, the Department requested a Business Plan from Intaka for

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the construction of such a manufacturing plant by no later than 15 February 2008.

**Intaka's reply to Johnson dated 15 February 2008 and a Letter from Johnson to Shabalala dated 19 February 2008**

**D35**

- 9.146 On 19 February 2008 Johnson sent a letter to Shabalala, Head: Provincial Treasury. He referred to an attached letter from Intaka and to paragraph 4 of the letter. In terms thereof it appeared that Intaka is denying that the agreement to purchase the 20 plants was subject to the establishment of a manufacturing plant in KZN. He further stated that as the memorandum to the relevant Members of the Executive Council referred to such an agreement, the Department wished to enquire what the terms and conditions of the said agreement were, to enable the Department to advise the Member of the Executive Council responsible for Local Government accordingly. **D35/1**  
**D35/6-9**  
**D35/2-5**
- 9.147 The letter from Intaka referred to by Johnson is dated 15 February 2008 and is signed by Praderi, as Commercial Director. This letter was sent in response to Johnson's letter to Intaka dated 6 February 2008 previously discussed by me. They have addressed the issues raised by Johnson and in particular argued their interpretation of what services were included in the Agreement and what Intaka was obliged to provide. I will not refer to this document in its entirety at this stage as I will refer to it again later in this report when summarising my findings. At this stage I will only refer to Intaka's explanation with regard to the "establishment of a manufacturing plant within KZN" being a condition approved by the CPC in terms of Johnson's interpretation, to which I concur, and which Johnson now requested clarity on from the CPC: *"It should also be mentioned that the purchase of the 20 units was not conditional upon a manufacturing facility being established in KwaZulu-Natal. What was, in fact, agreed was that in the event of any bulk order placed by the DLGTA subsequent to the purchase of these units, Intaka would set up a manufacturing facility. The reasoning for this was suggestions by the DLGTA at the time that they would require many more water purification plants in order to meet their social responsibilities"*. **D35/6-9**  
**D34**  
**D35/8**
- 9.148 I dispute Intaka's explanation. Intaka's first "quotation" to Shabalala dated 27 June **D1**

References in the margin refer to  
 appendix numbers

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2005 is for the supply of 1 (one) x Wataka 50 plant only in the amount of R1,935,720 including VAT and freight to Greytown. No reference is made to 22 plants; a bulk order or a manufacturing plant. However, Intaka's 2<sup>nd</sup> proposal ("quotation) to Shabalala dated 7 July 2005 includes the following: Intaka quoted R1.965,000 per plant for twenty two (22) x Wataka 50 plants ex- works Cape Town (excl VAT) and the timeframes referred to assume that the Province will order all 22 units simultaneously. They conclude as follows however: *"My approach to introducing this facility in South Africa is not merely of equipment sales but goes further to investing towards creation of a manufacturing base in South Africa, and particularly on the Province of KwaZulu-Natal as I believe this is the best base to do so. As a foreign investor, I have great belief in South Africa and it's potential and I believe by investing in this manufacturing facility it could play a significant role in respect of job creation and social development in this country"*. I submit this needs no further explanation other than to say there is no reference to *"any bulk order placed by the DLGTA subsequent to the purchase of these units"*, referred to by Intaka in their reply to Johnson dated 15 February 2008; Intaka's proposal was for 22 plants; and Intaka concluded that they will invest in a manufacturing plant in KZN.

D2

D2/6

D2/7

D35/8

**Reply from Provincial Treasury to Johnson dated 2 April 2008**

D36

- 9.149 On 2 April 2008 Skhumbuzo Mvelase for Head of Department Provincial Treasury replied to Johnson's letter to Shabalala dated 19 February 2008. The writer referred to Intaka proposal dated 7 July 2005 and their conclusion referred to by me in the previous paragraph of this report. The writer concluded as follows: *"In this regard, for me the mere mention of the above in the proposal was a sign of commitment from the Chairman in order for the Province to buy the product"*. Johnson informed us that he had not seen the quotation from Intaka dated 7 July 2005 prior to Mvelase providing a copy to him.

**Fax and Letter to Johnson from Intaka dated 16 April 2008**

D37

- 9.150 On 16 April 2008 Raoul de Lange of Intaka sent a fax to Johnson. The attached letter is dated 16 April 2007 (it is evident the year is in fact 2008 as the fax imprint at the

D37/1

D37/2-3

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top of the 3 page fax confirms the date as 16/04/2008). In the attached Intaka letter reference is made to a study performed by Trade and Investments KZN in 2005, which led Intaka to conclude that the province in question would be in need of approximately 100 plants in order to meet its socio- economic responsibilities. Intaka further refers to further discussions in which they proposed these plants be provided in phases and that the first order of 22 plants would be delivered from Cape Town. I do not deem it necessary to repeat the remainder of Intaka's explanation. The quotation/ submission to Shabalala dated 7 July 2005 made no reference to 100 plants or that the Department of LG & TA was aware of the 22 plants being part of a so-called "phase", or that that the manufacturing plant in KZN was subject to 100 plants being ordered. In addition no documentation has been provided to me that supports Intaka's explanation dated 16 April 2008. Dr Savoi in his affidavit referred to *"as I can recall, there was some discussion about the possibility of 80 units for one area alone in KZN"*. Dr Savoi and/or de Lange have not provided any documentation in the form of minutes of meetings or any other record that supports their explanations and that reflects that the Department of LG & TA was represented at such a meeting or discussion. As previously stated their proposal to Shabalala dated 7 July 2005 referred to 22 plants only and the manufacturing plant being established in KZN.

D2

B1/3

D2

**Letter from Johnson to Mvelase of Provincial Treasury dated 14 February 2008 (should read 6 May 2008)**

D38

- 9.151 Johnson sent a letter to Mvelase of Provincial Treasury and attached the reply from Intaka dated 16 April 2007 (should read 2008) dated 14 February 2008. He however stated that per his electronic records the date should read 6 May 2008. Johnson concluded that his office now considered the matter closed. Johnson in his affidavit explained that he had reached the said conclusion based on the fact that the price quoted by Intaka was ex- works Cape Town and hence it is clear the plants were to be manufactured in Cape Town. He was unaware of what transpired in 2005 with Trade and Investment KZN and was not part of any discussions with Intaka and/or Trade and Investments KZN.

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9.152 Skhumbuzo Mvelase (Mvelase), Manager Intergovernmental Relations, KZN Provincial Treasury was interviewed and he provided an affidavit. He confirmed receipt of the initial request from Johnson dated 19 February 2008 and that he compiled the reply that he signed and dated 2 April 2008. He was on leave when Provincial Treasury received the request which was endorsed by Shabalala "Mr Skhumbuzo Mvelase please follow this up DSD 10/03/2008".

E17

D35

D36

E17/4

9.153 Mvelase confirmed that he then received the 2<sup>nd</sup> letter from Johnson dated 14 February 2008 and a letter from Intaka dated 16 April 2007. He was confused with the dates as his reply to Johnson was 2 April 2008 i.e. after the dates appearing on the latest correspondence from Johnson. Despite this he was not requested to reply and let it be as Johnson had informed him the matter was closed.

**First addendum to Agreement dated 27 March 2009**

D39

9.154 It was reported to me and it will be referred to in subsequent documentation that a First Addendum to the Agreement between the Department of LG & TA and Intaka was concluded in order to clarify the extent of the services to be provided by Intaka. I was provided with an unsigned copy only by Kuhn. Kuhn stated he was instructed by Gumbi- Masilela to facilitate the settlement of the dispute between the Department and Intaka with regard to the items included in the purchase price and installation fee, and those that are not, as a result of which several meetings were held between Intaka, Johnson and himself. He was then instructed to prepare a draft addendum, the terms of which were eventually agreed upon, and Gumbi-Masilela authorised Johnson to conclude the agreement on behalf of the Department with Intaka. He added that the First Addendum essentially clarified the original agreement, and expanded on the services included in the original agreement concluded between the parties, enforcing his opinion that Intaka was generally responsible for basic abstraction services, and the commissioning and installation of the plants without further expenses to the Department.

E13/7

**Minutes of a Meeting held on 28 July 2009 between Intaka and the Department of LG & TA**

D40



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9.155 The minutes of the said meeting include the background, discussion on the status and concluded with an agreement on the way forward that is self explanatory. I do however wish to refer to specific points with regard to the status, that reflects on the planning, needs analysis and confirmation; before Intaka were requested to quote by Shabalala, prior to the CPC approving the awarding of the "bid" to Intaka and the Agreement being entered into with Intaka, that at least 20 sites had been identified and that it was urgent:

- 1) Intaka was contracted to supply and commission 20 plants;
- 2) All of the plants have been manufactured, however only 8 have been installed and commissioned;
- 3) Of the 12 sites where plants have not been installed (and commissioned), 4 have made "appointments for the implementation of the necessary site works that do not fall within the scope of Intaka responsibility". This is the 1<sup>st</sup> instance where I am aware that Intaka's responsibility was subject to the implementation of site works by 3<sup>rd</sup> parties and I submit was not disclosed in their quotations and correspondence with Shabalala or the Department of LG & TA or in the Agreement subsequently entered into between the 2 parties. I wish to refer to clause 3.1 of the Agreement once more: *"The seller (Intaka) will commence site preparation and the delivery, installation and commissioning of the product on 12 February 2007, as sites identified by the Department in writing as per the site co-ordinates attached hereto as Annexure A"*; D32/4
- 4) *"In relation to the remaining eight (8) sites, very little has happened to enable Intaka to install and commission the units"*;
- 5) Units are being stored south of Durban at a cost of approximately R15,000 per month;
- 6) Some of the sites specified for the placement of concrete slabs are inappropriate in that infrastructure is lacking and access is limited;
- 7) R11.6 million had been allocated by the Department of LG & TA to Municipalities to spend on the infrastructure relating to the installation of the units was to be withdrawn and the Department of LG & TA would deal with the matter themselves. I was not previously aware of these additional costs associated with the installation and it has not been disclosed in any documentation in my

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possession;

- 8) An additional issue was once the plants are operational, the clean water produced by them must be stored and distributed, and the infrastructure necessary to do this is not being installed by the Municipalities;
- 9) Many of the plants already installed are not being correctly operated and maintained by the Municipalities, which is resulting in damage to units and if this continues, the units could be destroyed;
- 10) Oosthuizen of Intaka *"raised for consideration, that a Service and Maintenance contract be concluded with Intaka at a cost of approximately R45,000 per unit per month, which includes chemicals, regular inspections and scheduled maintenance, but which excludes daily operations"*;
- 11) The Department of LG & TA will report back to Intaka on an urgent basis and before 20 August 2009 regarding the HOD's discussions with Cabinet and the Water Boards, in respect of the return of funds to the Department of LG & TA by relevant Municipalities and the transfer thereof to relevant Water Boards, and what sites are being transferred to which Water Board;
- 12) The Department of LG & TA will be fully responsible for the storage costs of the units from 1<sup>st</sup> January 2009.

**Documentation and events that resulted in the signing of a 2<sup>nd</sup> and 3<sup>rd</sup> Addendum to the Agreement**

9.156 Subsequent to the above meeting on 28 July 2009, during the period 18 September 2009 and 17 May 2010, the Department of LG & TA entered into a further 2 addendums to the initial Agreement with Intaka, with potentially significant financial implications. It is my submission this was a direct result of insufficient planning and proper needs analysis being performed before the order was awarded to Intaka for the provision of 20 Water Purification Plants.

- 1) Edward Nathan Sonnenbergs acting on behalf of Intaka sent a letter to Gumbi-Masilela, Evetts, Johnson and Kuhn dated 18 September 2009, where they detailed their version of the events and concluded by demanding confirmation in writing by close of business on 25 September 2009 of the agreements reached in

**D41**

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- the meeting of 28 July 2009. D40
- 2) On 7 October 2009 Kuhn sent an e-mail to Gumbi- Masilela titled "claim by Intaka Tech (Pty) Ltd" and referred to a memorandum concerning storage fees to Intaka. D42/1
- 3) The said Memorandum dated 6 October 2009 prepared by Kuhn wherein he recommended the HOD approves payment in the amount of R15,000 per month to Intaka effective 1 October 2009 i.e. for six months. The total foreseen expenditure is R90,000 provided that all units are installed by 31 March 2010. This was approved by Gumbi- Masilela on 13 October 2009. Kuhn drafted a Second Addendum to the Agreement that was subsequently signed by Gumbi- Masilela on 15 October 2009 and he sent it to Intaka. D42/2-4  
D42/5-6
- 4) On 3 November 2009 Intaka sent a letter to Gumbi- Masilela, Evetts, Johnson, Kuhn and Nomusa Dube. I will not repeat the contents of this document, but to say Intaka have concluded by demanding: the installation of four units at the sites so specified by the end of 2009; and the Department of LG & TA take delivery of the remaining 12 units by collecting them within 3 weeks from the site at which they are being stored. They also declined to sign the Second Addendum. D43
- 5) Kuhn then forwarded the Intaka letter to Evetts and copied it to Johnson on 6 November 2009. He discussed the letter and the status. He concluded by suggesting that they as the Department meet with Intaka as soon as possible after his return on 23 November 2009, to negotiate a settlement, and that Evetts discuss the matter with Johnson and the HOD, and advise him via e-mail what decision has been taken. D44/1-2
- 6) Intaka sent a further letter through their attorneys Edward, Nathan, Sonnenbergs on 16 November 2009 and referred to their letter of 3 November 2009. D44/3
- 7) On 7 January 2010 Ngubane Wills Inc Attorneys sent a fax to Kuhn and Evetts. Attached was a letter sent by Ngubane Wills Inc Attorneys to Intaka's attorneys Edward, Nathan, Sonnenbergs also dated 7 January 2010. The letter related to the cost of the storage fees of the plants and that Ngubane Wills Inc Attorneys were representing the Department of LG & TA. A further fax was sent to Kuhn and Evetts from Ngubane Wills Inc Attorneys and an attached letter from Edward, Nathan, Sonnenbergs representing Intaka dated 20 January 2010 to John Wills of Ngubane Wills Inc. They referred amongst others to the storage fees being R16,689.50 (including VAT) and not R15,000. Also attached was an Agreement D45/1  
D45/2-3  
D45/4-5  
D45/6-7
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- for payment in the amount of R16,689.50 (including VAT) per month. I wish to state that I have not interviewed the said attorneys but am aware that John Wills approached the public prosecutor from the Durban Commercial Crime Court during the course of this investigation, representing Shabalala and the ANC in relation to the alleged donation of R1 million to the ANC by Intaka. I will refer to the representation he made later in this report. He has also subsequently been employed as a legal advisor to the Office of the Premier. D45/8-9
- 8) On 26 February 2010 Kuhn was advised by the HOD via e-mail that he was duly authorised to sign the agreement, being the "Second Addendum to the Memorandum of Agreement" in terms of which the Department of LG & TA agreed to compensate Intaka for the storage fees with effect from 1 October 2010 and that all risk in and to the remaining Units stored by Intaka be transferred from Intaka to the Department of LG & TA with effect from 26 February 2010. Kuhn signed the said Second Addendum on the same day (26 February 2010). Kuhn forwarded a copy of the signed Second Addendum to Evetts on 1 March 2010. D46/1  
D46/2-4  
D46/5
- 9) On 26 April 2010 Evetts prepared a Submission addressed to the HOD for purposes as detailed in said document. Of significance is that 12 of the original 20 plants had not been commissioned, site works in 8 had not yet started and 10 had not yet been delivered. I confirm that on 26 July 2010 I physically verified 10 plants are standing in the open on vacant land near Amanzimtoti on the Durban South Coast. I will elaborate on this later in this report. Reference is also made to a meeting with Intaka and the MEC on 26 February 2010, that the MEC agreed that Intaka should complete the works at the remaining sites and that a Third Addendum to the Agreement would be concluded. The cost of the work on 9 sites (the 1 site reflected "minor progress") amounted to R14,039,844 inclusive of Intaka's management fees of 10%. In addition a 10% contingency sum has been added which brings the total additional cost to R15,444,000. The document also made provision for the offsetting of this additional costs against an amount of R8,857,200 to be recovered from municipalities concerned. The Submission was signed and supported by Evetts, Kuhn of Legal Services and the CFO. Beykirch of SCM did not "supported/not supported/supported as amended", but wrote "see notes by DD SCM". Gumbi- Masilela deleted the options of "approved/not approved/approved as amended" and made the following entry: D47

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*"Varied. I think this memo lacks clear commitment on how to manage this process to ensure that all funds are recovered before additional funds are allocated. We cannot throw good money to bad project this process is only approved on condition of a clear process to recover the R11m from the municipalities. The MIG unit to provide this plan with clear timeframes for recovery before this kicks in".*

- 10) The notes referred to by Beykirch is a Memorandum dated 29 April 2010 issued by Baldie and related to SCM comments. I do not believe this requires further explanation. This was forwarded to Kuhn and copied to Evetts on 7 May 2010. D48/1
- 11) On 17 May 2010 the Department of LG & TA and Intaka entered into a Third Addendum to the Memorandum of Agreement for the provision of site works in the amount of R15,444,000. D48/2  
D49

**Visit to Heartlands Industrial Park on 26 July 2010**

- 9.157 On 26 July 2010 I visited Heartlands Industrial Park near Amanzimtoti in KZN with Evetts. I determined that ten (10) of the twenty (20) water purification plants purchased by the Department of LG & TA were stored in an open yard. I examined these plants and noted that they are starting to rust in some areas. It is further evident that efforts had been made to clean up the tanks as I noted marks on the tanks similar to that made by an electric grinder. I further noted grinding discs on the ground (grass) in the yard amongst the tanks.
- 9.158 I obtained photographs of the said storage yard and the plants as detailed hereunder. F1

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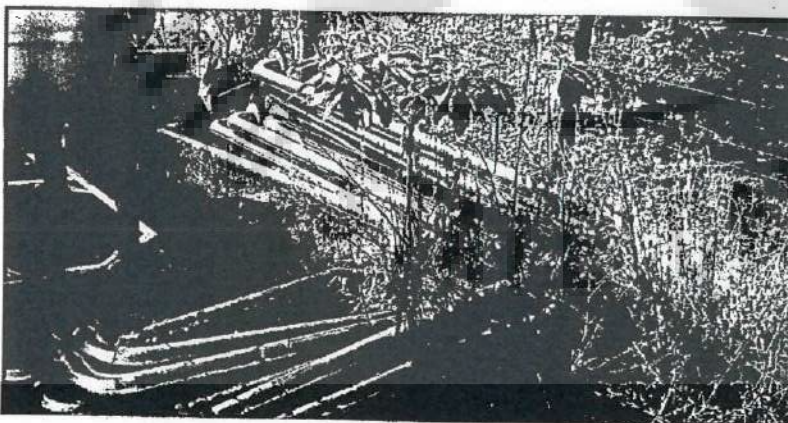
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**Ten (10) x Wataka Water Purification storage tanks**



**Ten (10) x Wataka Water Purification stainless steel sets of filters**



**Ten (10) x pipes linking to the Wataka Water Purification units**

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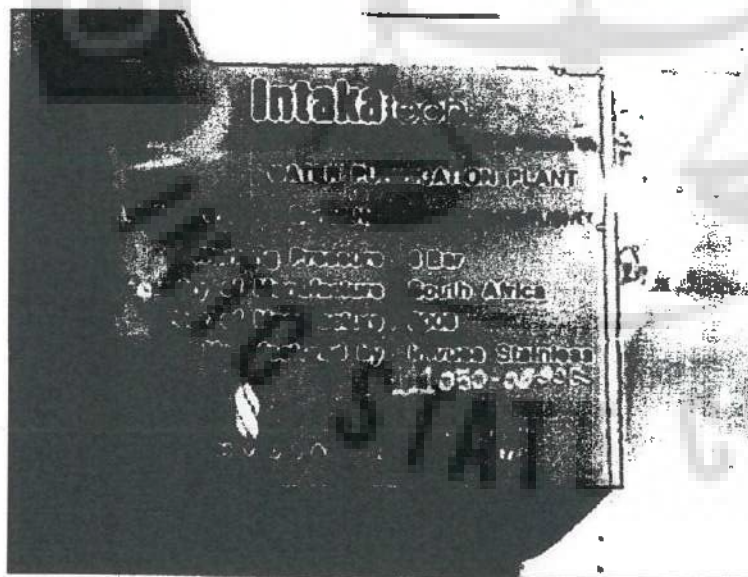
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9.159 I also determined that there were engraved labels on the storage tanks. The 1st are Intaka Tech labels that contain the following information:

- 1) Intaka Tech, tel: +27217021559, fax: +27217022260, e-mail: info@intakatech.com;
- 2) Water Purification Plant, Model W050, Serial No: KZNEE/050/08/11/01;
- 3) Working Pressure: 3 Bar;
- 4) Country of Manufacture: South Africa;
- 5) Year of manufacture: 2008;
- 6) Manufactured by: Invusa Stainless;
- 7) An engraved serial number beginning with the prefix 111050 and consisting of 10 serial numbers: 08001; 08002; 08004; 08005; 08006; 08008; 08009; 08010; 08011 and 08012;
- 8) Invusa Stainless: tel: +27219055324, fax: +27219051771.

9.160 A photograph of the said label is detailed hereunder.

F1/9



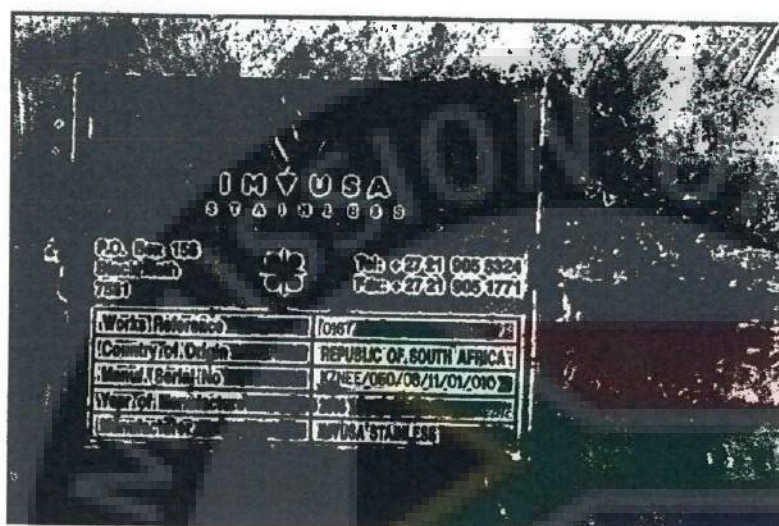
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- 9.161 The 2<sup>nd</sup> are Invusa Stainless Labels that contain amongst others the year of manufacture 2008 and the serial numbers that match those appearing on the Intaka Tech labels. A photograph of the said label is detailed hereunder.

F1/9



- 9.162 I previously referred to Intaka's letters to the Department of LG & TA with reference to the completion of the 20 water purification plants and Kuhn's confirmation of being shown the plants:

- 1) On 6 June 2006 "we have already the plants ready. Therefore, we would appreciate it if you could inform us the addresses where these plants have to be sent"; D19/1
- 2) On 11 July 2006 "we want to inform you that the Watakas model 50 are ready to be collected by your Department". D20/1
- 3) On 6 February 2007 Kuhn visited Cape Town and "was shown 18 completed units, as well as 6 further units in various stages of manufacture, of which 2 are scheduled for completion by 16 February 2007, although I am for obvious reasons unable to confirm whether the units shown to me are those that are to be delivered to KwaZulu-Natal". D31/5
- 4) Intaka's invoice number 253 dated 6 February 2007 is in respect of the purchase of 20 Wataka water purification units model 050 in the amount of R44,563,636.40 and they were paid the following day 7 February 2007. C1/3  
C1/6

References in the margin refer to  
 appendix numbers

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9.163 The ten plants currently stored at Heartlands Industrial Park reflect the date of manufacture as 2008. Hence, based on the above the Department paid for 10 plants in February 2007, that were only manufactured in 2008. In addition to this I determined when investigating the purchase of two x water purification plants by the KZN Department of Health in 2005 that Imvusa Stainless colluded with Intaka in the submission of a cover quotation. I further determined that Imvusa Stainless cc with registration number 2006/116265/23 was previously known as Imvusa Trading 1319 and was first registered on 11/07/2006. The Active Principals are: Donald Keith Miller id 521204 5002 082 (Miller) appointed on 27/09/2006; Gregory George Petersen id 601229 5092 083 appointed on 09/11/2006; Ronald Desmond Rabie id 500311 5060 088 appointed on 09/11/2006; and Ansano Romani id 470130 5041 088 (Romani) appointed on 26/03/2007. Both Miller and Romani have been implicated in defrauding the KZN Department of Health together with Dr Savoi and Praderi and Department of Health officials.

F2

**Interview with Tony Gerrans of Grotto Defranceschi**

9.164 An interview was conducted with Tony Gerrans (Gerrans) of Grotto Defranceschi (Grotto) during the course of conducting the investigation into the KZN Department of Health, previously referred to by me. He provided a detailed document explaining Grotto's relationship with Intaka, the forming of Imvusa by Miller who was later joined by Romani and the price of the water purification plants. This was subsequently converted into an affidavit that is attached for ease of reference. Detailed below is a summary of this information received:

F3

- 1) Grotto was commissioned by Intaka to build 30 complete 'Wataka' water purification units. These plants were completed by the end of 2006. The first two plants were (unilaterally) discounted by some 50% by Romani (now employed by Imvusa), ostensibly as Grotto's contribution to developing this new product. Subsequent plants were sold to Intaka for between R412,000 and R475,000, the price variance being the result of fluctuating steel prices and some specification changes relating to the control system of the plants.
- 2) He was unable make a 100% identification of the plants at Rietvlei and

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Appelsbosch Hospitals after being sent photographs obtained by my managers when they visited the hospitals. Gerrans added that the plants are otherwise identical to what Grotto supplied to Intaka. He concluded that the plants cost between R412,000 and R475,000 and an additional approximately R250,000 for transport and commissioning. Hence, Grotto's price for one water purification plant would have been a maximum of R725,000. Intaka charged the Department of LG & TA R44,563,636.40 per plant for the manufacture of the 20 plants that amounts to R2,228,181.82 per plant; and a further R5, 617, 919.40 for delivery and commissioning, the latter being incomplete. This amounts to R2,509,077.79 per plant.

**Documents seized by the SAPS from Intaka**

- 9.165 I identified the following documents relating specifically to the price of the Wataka 50:
- 9.166 1) A document titled: "Intakatech Water & Gas Water Purification Plant Cost Price List 2007" dated 14 August 2007. The cost price of the Wataka Model 050 is listed as R840,600 inclusive of all costs including: complete unit R524,600; Freight R105,000; Concrete Slab R85,000; Installation: R95,000; and Commissioning and Chemicals R31,000. The said price list, based on the stamp thereon was approved by "Dr Gaston Savoi" and also contains what appears to be the name "F Prader". This is approximately 2 years after Intaka provided Shabalala with a quotation of R1,965,000 ex works Cape Town excluding VAT, freight and civil works, for the same plant on 7 July 2005. F4
- 2) A document on a letter from Loftus Neethling to Dr Savoi dated 31 August 2006 titled: "Prices and terms on building the Wataka 050 complete with automation". In terms thereof the cost price to Intaka of the Wataka 50 is R531,341.53 excluding VAT. F5
- 3) An Intaka Tech Purchase Order number 32380 issued to Imvusa Trading 1319cc dated 2 June 2008. In terms thereof Intaka ordered 18 x water treatment plants 050 in the amount of R730,000 each excluding VAT. F6

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**Payment made to Kuboni and Shezi Attorneys by Intaka**

- 9.167 Dr Savoi confirmed in his affidavit that *"the Watakas were finally launched for the Department of LG & TA in KZN on 5 April 2008, some two years after the initial purchase of the equipment"*. B1/7
- 9.168 I previously referred to Dr Savoi's affidavit and that he alleged he had received an invoice from a firm of attorneys called Kuboni and Shezi for an amount of R1,032,000 inclusive of VAT, and which invoice was subsequently paid by Intaka. He also referred to an attached a copy of this invoice and the supporting Intaka documentation showing payment as "GS4". The said invoice on a Kuboni and Shezi Attorneys letterhead is dated 14 February 2007 and is for R1 053 000. The first payment was made by the Department of LG & TA to Intaka was on 5 March 2007 in the amount of R44,563,636.40. The description on the Kuboni and Shezi invoice is *"to our fees for work done with the taking of instructions, telephone calls, correspondence, drafting of contracts, consultations, attending meetings, drafting legal opinions"*. I located the following documents amongst the records seized from Intaka by the SAPS: G1/1
- 1) A Proof of Online Payment: Kuboni and Shezi confirming payment from account number 62106988150 on 12 March 2007 in the amount of R1,053.000 to Standard Bank account number 050871994. C1/6 G1/2
  - 2) A letter on a Kuboni and Shezi Attorneys letterhead dated 15 February 2007 addressed to Dr G Savoi of Intaka Investments (Pty) Ltd attaching their invoice and proving their banking details. G1/3
  - 3) A copy of their invoice dated 14 February 2007 that is the same as that attached to Dr Savoi's affidavit. G1/4
- 9.169 I located a number of documents in the Intaka records seized by SAPS which detail how the payment to Kuboni was initially accounted for as legal fees and the subsequent reclassification as consultancy fees and ultimately as a donation. To simplify the entries I have not included the entries that account for the effect on income tax as a result of the reclassification between legal fees and donations.

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- 9.170 First entry: G2/1
- |                                       |             |               |
|---------------------------------------|-------------|---------------|
| Dr Legal Fees                         | R923 684.21 |               |
| Dr VAT Receivable (Input Tax)         | R129 315.79 |               |
| Cr FNB Current Account 6210 69 88 150 |             | R1 053 000.00 |
- (journal entry 5914 : Payment to Kuboni and recording of expense as legal fees and claiming the input VAT)
- 9.171 The Intaka Investments (Pty) Ltd FNB bank statement for account number 62106988150 subpoenaed by SAPS reflects that R1 053 000 was paid to "Kuboni & Shezi Attor" on 12 March 2007. The Kuboni and Shezi trust account held at Standard Bank account number 050871994 reflects that R1 053 000 was received from Intaka Investments on 12 March 2007. G3/3  
G8/11
- 9.172 A schedule dated 25 July 2007, which records that it was prepared by Michele King, who was the Intaka Tech Financial Accountant sets out a reconciliation of the legal fees and attaches copies of the supporting invoices from the various legal suppliers. It is evident from this schedule that the ongoing legal work was done by Eisenberg & Associates and Spoor & Fisher but that 80% of the total expenditure on legal fees in the year ended 28 February 2007 was for the one payment to Kuboni and Shezi Attorneys. G2/2-24
- 9.173 Second entry: G2/25
- |                     |             |             |
|---------------------|-------------|-------------|
| Dr Consultancy Fees | R923 684.21 |             |
| Cr Legal Fees       |             | R923 684.21 |
- (journal entry 15761 : audit reclassification of the legal fees as consultancy fees)
- 9.174 Attached to the copy of the above journal in Intaka's records is a copy of what appears to be an audit working paper, dated 8 April 2008, and it appears that as a result of the preliminary audit work performed the above reclassification between legal fees and consultancy fees took place on 11 April 2008. I subsequently confirmed that G2/26-35 were copies of audit working papers as these were included in the Mazars (Intaka external auditors) working paper files for the audit of Intaka Tech that were subpoenaed by SAPS. G2/26-49  
G2/53-62

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- 9.175 Third entry: G2/50  
 Dr FNB Current Account 6210 69 88 150 R1 053 000.00  
 Cr Legal Fees R923 684.21  
 Cr VAT Receivable (Input Tax) R129 315.79  
 (journal entry 18091 : Reversal of First entry re Payment to Kuboni and recording of expense as legal fees and claiming the input VAT)
- 9.176 Fourth entry: G2/51  
 Dr Donations R1 053 000.00  
 Cr FNB Current Account 6210 69 88 150 R1 053 000.00  
 (journal entry 18092 : Payment to Kuboni and recording of expense as a donation, no input VAT claimed)
- 9.177 Fifth entry: G2/52  
 Dr Legal Fees R923 684.21  
 Cr Consultancy Fees R923 684.21  
 (journal entry 18093 : reversal of journal 15761 audit reclassification of the legal fees as consultancy fees)
- 9.178 The Third, Fourth and Fifth journal entries referred to above were processed on or before 20 June 2008.
- 9.179 Mr Mike Erasmus, the current Chief Financial Officer and former Financial Director of Intaka, was interviewed and during this interview amongst other things he stated that the auditors had reported the transaction involving the payment to Kuboni and the treatment of this as legal fees to the Independent Regulatory Board for Auditors ("IRBA"). He subsequently, via his attorney Mr Stephen Duffet of De Klerk & Van Gend, provided copies of the various documents regarding the Reportable Irregularity which are discussed in more detail hereunder.
- 9.180 On 25 June 2008, Michelle Oickers ("Oickers") the Mazars Moores Rowland ("Mazars") partner responsible for the Intaka audit addressed a letter to IRBA G4/1

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wherein she stated the following:

*"...I have reason to believe that such a reportable irregularity (as defined in the Act) is taking place in respect of Intaka Tech (Proprietary) Limited ("the company") (Registration Number 2003/021018/07).*

*I have included all the particulars and explanations outlining the reportable irregularity (as I deem appropriate) below:*

**Value Added Tax:**

- *The client claimed VAT on an invoice for legal fees.*
- *It was subsequently discovered that the payment was not in fact for legal fees, but was a donation. The directors of the company confirmed this in a meeting of directors.*
- *No VAT should have been charged on the invoice and the company should not have claimed the VAT.*
- *The expense was reclassified to donations and the VAT reversed."*

9.181 On the same day being 25 June 2008 a letter from Mazars was addressed to Dr Savoi regarding the reportable irregularity and it stated amongst other things that:

G4/2

*"I have been in contact with Michael Erasmus, who has confirmed that the VAT referred to is being added back in your current VAT return. I will request information from him to evidence this fact and will then be able to write my second letter to the Board to confirm that the suspected reportable irregularity is no longer taking place and that adequate steps have been taken for the prevention or recovery of any loss as a result thereof."*

9.182 Letter from Mazars to IRBA, dated 15 July 2010 within which it is stated that:

G4/4

*"I have fulfilled my responsibilities contained in S45(3) to discuss the initial report submitted with the Board and the director and to afford the director of the company an opportunity to make representations in respect of that report.*

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*Following my investigations and having regard to all information that has come to my knowledge from any source, I have concluded that the reportable irregularity is no longer taking place and that adequate steps have been taken for the prevention of any loss as a result thereof."*

- 9.183 Letter from Mazars to Dr Savoi dated 21 July 2008, attaching a copy of the letter to IRBA in which Olckers reports that the reportable irregularity is no longer taking place and that she is satisfied that the VAT has been paid to SARS. **G4/5**
- 9.184 Erasmus also provided copies of the following documents which he says he supplied to Olckers at a meeting and that it was based on these documents that the letters referred to above, dated 15 July 2008 and 21 July 2008, were written:
- i. VAT reconciliation for the period 31 May 2008 showing that R129 315.79 has been added to output VAT. The description of the entry is "YE07 Audit Adj Kuboni and Shezi, input vat reversal." **G4/6**
  - ii. Intaka Investments (Pty) Ltd VAT return for period ended May 2008. This return is signed by what appears to be Erasmus in his capacity as Financial Director, is dated 23 June 2008 and contains a SARS stamp dated 25 June 2008. **G4/7**
  - iii. Intaka Tech Tax Report dated 23 June 2008. **G4/8**
  - iv. Intaka Tech VAT Payable General Ledger account for May 2008. **G4/9**
  - v. Intaka Investments (Pty) Ltd VAT return for period ended February 2007. This return is signed by what appears to be the signature of Adriaan Loubscher the Intaka Financial Manager at the time in his capacity as Financial Manager, is dated 23 March 200 (illegible but it is apparent the year is 2007) and contains a SARS stamp dated 23 March 2007. **G4/10**
  - vi. Intaka Tech Tax Report dated 22 March 2007 **G4/11**
  - vii. Intaka Tech VAT Receivable General Ledger account for February 2007 **G4/12-13**
  - viii. SAP screen print **G4/14**
  - ix. Journal entry 5914 (referred to as the First entry in paragraph 9.157 above) **G4/15**
- 9.185 The SAPS subpoenaed the following from Mazars, the auditors of the Intaka Group

References in the margin refer to  
 appendix numbers

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of companies, for all entities in the Intaka Group :

- i. Audit working papers;
- ii. Correspondence between Mazars and Intaka;
- iii. Minutes of all meetings with Intaka directors or employees; and
- iv. Correspondence with the Independent Regulatory Board for Auditors (IRBA).

9.186 In addition to the documents received from Erasmus, referred to above, a number of other documents relevant to the R1 053 000 "donation" were included in the more than 10 000 pages provided and have been referred to below.

9.187 A document titled "Notes of discussion 29 May 2008" was in the file "IRBA Correspondence RI". The people present are recorded as Craig MacGillivray (Managing Partner Cape Town), Kevin Frohbus (National Risk Management Partner) and Kathy Robison (National Risk Management Partner). I obtained their respective positions from the Mazars web site, mazars.co.za, on 25 October 2010.

G4/16

9.188 While there appears to have been discussion between the above Mazars partners about whether there was "reason to believe" a Reportable Irregularity had taken place and the fact that the suspicion of the irregular payment came from the Scorpions via Gillian Bolton, the Mazars Forensic Investigations partner, consensus regarding whether it should be reported to IRBA could not be reached. Kevin Frohous also suggested that obtaining an affidavit from the external party that received payment would be better audit evidence than relying on representations from directors which is usually much lower quality evidence. It was however agreed and recommended that:

G4/16

- i. The firm do not make decision on RI without seeking legal opinion (IRBA guide 2.8) on whether the information is sufficient to conclude there is "reason to believe".
- ii. The audit team must perform additional audit procedures to understand the contradiction between working paper, invoice and directors' meeting minute before being able to render audit opinion. Classification of payment in the income statement may be incorrect and VAT may be incorrect.

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- iii. Audit team must do more work to investigate other transactions in financial statements to understand if this was once off.

- 9.189 At the time of the above internal Mazars meeting they had already received the standard Letter of Representation, dated 7 April 2008, signed by two directors of Intaka Tech. It appears to have been signed by Dr Savoi and Erasmus. There is no evidence that an updated representation letter was obtained from the directors where the circumstances surrounding this payment of R1053 000 for legal fees/donation was specifically dealt with. G4/17  
G4/19
- 9.190 The abovementioned representation letter contains amongst other things the following which are not true:
- "We confirm, to the best of our knowledge, and belief, the following representations:*
- i. *There has been no irregularities involving management or employees who have a significant role in the accounting and internal control systems or that could have a material effect on the financial statements.*
  - ii. *We have disclosed to you all significant facts relating to any frauds or suspected frauds known to us that may have affected the entity."*
- G4/17
- 9.191 I asked Olckers on 11 October 2010 if she had any evidence that the ANC received the donation from Intaka. She said she did not but had never asked for it as she had relied on the representations from the directors in this regard. This was even although it was suggested by the Mazars risk management partner that an affidavit be obtained from the recipient of the donation as this would be better audit evidence than relying on representations from directors, which based on the content of the "Letter of Representation" referred to above are clearly not worth much. G4/16  
G4/17
- 9.192 Based on my review of the audit working papers for Intaka Tech, for the year ended 28 February 2007, I have not been able to identify any additional audit procedures that were performed to identify whether there were any other transactions in the financial statements of a similar nature or whether the payment was a once off. Nor is there any explanation in the audit working papers as to why Olckers accepted the

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explanation of Savoi, in the minutes of the directors meeting of 14 May 2008, that Intaka merely did what Shabalala requested with regard to paying the donation based on a fraudulent invoice for legal services that were never provided.

- 9.193 Erasmus, on 20 May 2008, sent Olckers an electronic unsigned copy of the minutes of a directors meeting which took place on 14 May 2008. This meeting was attended by the following: G4/20
- i. Gaston Savoi - Chairman G4/21
  - ii. Rodrigo Savoi - Director
  - iii. Raoul de Lange - General Counsel
  - iv. Michael Erasmus - Financial Director
  - v. Fernando Scelza - Swanton Enterprises Corp - invitee
  - vi. Fernando Praderi - Hawksbill - invitee
- 9.194 This meeting had been requested by de Lange to discuss two issues, the first of which relates to the matter covered by this report. De Lange also gave all the invitees a copy of a memorandum that he had addressed to Savoi on 9 May 2008 and requested that this memo be incorporated in the minutes. This memo was not attached to the copy of the minutes sent to Olckers nor is there any evidence that after receiving the minutes that she asked for a copy. I located a copy of this memo in the Intaka records seized from Intaka by SAPS. This memo deals with concerns de Lange had regarding the legitimacy of the R1 053 000 payment and concludes that G4/21
- "On the face of it, the payment made to Kuboni & Shezi Attorneys seems to be in contravention of the abovementioned provisions, is a criminal offence and can lead to the imposition of a fine or imprisonment. In light of the fact that you, at the time, were a foreign national and not accustomed or versed with the protocols established for entering into a business relationship with a government body it is very likely the Mr Siphon Shabalala may have "duped" you into believing that this was destined as a donation to the African National Congress."* G4/24
- 9.195 Further subpoena's were served on Gillian Bolton "Bolton" and Selwyn Solomon "Solomon" of Mazars by SAPS and in terms of these subpoenas further documents were provided to SAPS. Legal representatives of Intaka Holdings and Savoi claimed G4/28-29
- G21

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that some of the documents provided by Marzas may be privileged and as a result an agreement was reached whereby the documents that Intaka Holdings and Savoi "do not claim privilege" would be provided to SAPS in hard copy. 9,677 pages were provided.

9.196 Included in the documents that Intaka Holdings and Savoi "do not claim privilege" was a copy of the abovementioned memo from de Lange to Savoi dated 9 May 2008. This memo contained some track changes that appear to have been made by Bolton. G22/1-5

9.197 The minutes state that de Lange "was advised by Gillian Bolton, the forensic lawyer, that the Directorate of Special Operations (DSO) is investigating the sale of 20 water purification plants to the KwaZulu-Natal Department of Local Government and Traditional Affairs. The two folds are: G4/21

- i. That the sale of the plants took place without the proper tender procedures. This first point is not a concern because it is the government that needs to deal with it.
- ii. There are allegation by the DSO that Intaka Tech made a payment to Mr Sipho Shabalala (sic), who at the time of the sale of the plants was the HOD of the Provincial Treasury of KZN and a member of the Board of the Tender Committee, to facilitate the process."

9.198 The minutes then continue as follows and have been repeated here verbatim, with the exception of the names of the persons who the content is ascribed to which have been included in full instead of merely their initials, due to the significance of the content thereof:

"Savoi expressed that the company is really astonished with these comments. It is also tired of the recurrent episodes in which it has been a victim of internal political disputes among government officials and political agents including media negative exposure. As foreign investors that came to the country to bring solutions to healthcare problems we don't deserve this kind of treatment. G4/22

Savoi stated that Intaka Tech was only aware that Mr Shabalala was the HOD of the Provincial Treasury of KZN.



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*Regarding this second point there was a donation requested for ANC. De Lange commented that there is no problem with this donation, the only problem is that payment was made to Kuboni & Shezi Attorneys and the company received an invoice from them for work done by this firm which was not done.*

*Savoi stated that Mr Shabalala informed that our company would be contacted by a legal buffet (sic) handling the contributions to ANC, that they will provide the invoice for the donation of our company. As Intaka Tech does not know how the procedures of donations to the party work we proceeded as instructed.*

*De Lange said that the ultimate concern is that the company has primarily overseas investors and that Mr Shabalala has benefitted from this matter.*

*The first impression of this matter is that it could be a contravention of the prevention and combating of corrupt activities act and that this needs to be addressed.*

*One of the options is that Intaka Tech addresses this matter contacting the NPA directly and making an appointment to explain the situation.*

*De Lange mentioned that Ms Gill Bolton is also aware that DSO is investigating why Intaka Tech received the payment in advance of the delivery of the plants. In this regard Savoi explained that Intaka Tech did not receive a payment in advance of the delivery of the plants but that the company received it on delay due to the fact that the plants were initially sold ex-works. Therefore the Department of Local Government and Traditional Affairs had to pay as soon as Intaka Tech notified them that the order was ready which did not happen.*

*Afterwards Intaka Tech was asked to deliver the plants installed and commissioned. This request was accepted and the company received a formal order for that purpose.*

*It was agreed to follow de Lange's recommendation to have a meeting with the Director of the NPA to discuss the abovementioned matters.*

G4/23



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*It was also agreed that a previous meeting will be arranged with Mazars Moores Rowland, both with Mr Solomon and Ms Gill Bolton so they can explain both the auditors and forensic issues."*

**G4/23**

9.199 There is no record in the documents that were provided to the SAPS in terms of the subpoena referred to above that this meeting with Mazars took place or if it did what was discussed.

9.200 On 27 June 2008 Deneys Reitz advised Olckers of Mazars that based on the information they had been provided that she had an obligation to report to IRBA as by definition this is a Reportable Irregularity. Olckers reported as required on 25 June 2008.

**G4/30-31**

**G4/1**

9.201 It is evident from the above documents that Olckers did not disclose all the information she had at her disposal regarding the R1 053 000 when she sent her letter to IRBA dated 25 June 2008 and as a result it was possible for the Reportable Irregularity to be cleared by merely reclassifying the payment as a donation and refunding the VAT that had been claimed. Had further information been included in the report to IRBA they may have considered it necessary to report this matter to the "appropriate regulator", which in this case is the Director of Public Prosecutions.

9.202 The audit working papers for the year ended 28 February 2008 contain a document dealing with sales of Watakas. This document under Note 1 states that 12 (60%) of the Watakas sold to KZN LG & TA were not delivered at year end and have therefore been excluded from Revenue for the year and reclassified as deferred revenue. The selling price of these Watakas, excluding VAT, was R23 454 545.52 (R39 090 909.20 x 60%). The 20 Watakas were sold for R44 563 636.40 or R39 090 909.20 excluding VAT.

**G4/32**

9.203 The above adjustment of R23 454 545.52 to defer the recognition of the revenue was made on a schedule summarising Revenue from Trading with the result being that the total revenue, according to this schedule, for the year was R57 834 788. This was also the amount of revenue included in the income statement on page 9 of the

**G4/33**

**G4/45**

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Annual Financial Statements for the year ended 29 February 2008. The deferred revenue of R23 454 545.52 was included in the R26 420 845.38 Deferred Income – Current Liability on page 8 of the Annual Financial Statements. **G4/44**

- 9.204 The Intaka Holdings Annual Financial Statements for the year ended 29 February 2008 were signed by the two directors who were Savoi and Rodrigo Savoi. **G4/40**
- 9.205 It is therefore evident that there were issues regarding the delivery of Watakas and the fact that from an accounting perspective the Revenue had not been earned for the sale of 12 of the Watakas and it was therefore not recognised in the financial statements as a sale, even although the money had been received, but rather as deferred revenue. This is despite the fact that Dr Savoi had gone to great lengths to convince, and was successful in this regard, the Department of LG & TA that they had "delivered" in terms of the contract and that payment should be made (which it was on 7 March 2007). However the auditors of Intaka were not satisfied that the revenue for this sale had been earned at 28 February 2008 (almost a year later) and therefore it could not be recorded as revenue in the financial statements for the year ended 28 February 2008.
- 9.206 The majority of the documents provided in terms of the further subpoenas served on Bolton and Solomon were documents under the control of Solomon. I have referred to some of the documents below which I believe are relevant to showing the extent of Solomon's involvement with Intaka and particularly this knowledge of "commissions" paid by Intaka.
- 9.207 Email from Savoi to Solomon and Eisenberg dated 31 August 2006. Attached to this email is memo from Loftus Neethling of Windmeul Engineering dated 31 August 2006 which refers to a meeting on 25 August 2006 with Praderi and Solomon. The cost of manufacturing the Wataka 050 complete with automation is R531,341.51 excluding VAT. **G23/1**  
**G23/2-3**
- 9.208 Email from Savoi to Solomon and various other people dated 4 September 2006, subject "Letter to Windmeul Engineering". The letter attached to the email is from **G23/4**  
**G23/5**

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Savoi to Loftus Neethling and states that the price quoted in the letter dated 31 August 2006 is too expensive and that Intaka have secured a quotation elsewhere for approximately 17% less.

9.209 Email from Laubscher to Solomon dated 17 May 2007, titled "Revised budget 2007/2008". The email reads as follows "Selwyn, please find attached the revised budget for 2007/2008. Please give me a call to discuss". The budget attached to the email records on the Income Statement that the following commission is budgeted for:

- i. Commission paid in Wataka R34,520,175.44
- ii. Commission paid in Oxyntaka R 4,108,903.51

9.210 A detailed breakdown of the commission to be paid is also sent out on a separate schedule by Province and customer. Below is the information that relates to the 20 Watakas sold or to be sold in KZN:

| Province<br>KZN | Quantity | Sales Price<br>Each | Cost Price  | Interest   | Total Sales<br>Price | Commission |
|-----------------|----------|---------------------|-------------|------------|----------------------|------------|
| Project<br>20   | 20       | R2,228,181          | R10,344,000 | R3,390,000 | R44,563,636          | R1,053,000 |

9.211 The profit on this sale was R30,829,636 (R44,563,636 – R10,344,000 – R3,390,000) before paying a commission of R1,053,000. The R1,053,000 is exactly the same amount that was paid to Kuboni and Shezi on 12 March 2007. It is clear from this email and budget that Solomon knew that the R1,053,000 was commission paid on the sale.

9.212 Email from Laubscher copied to Solomon dated 8 August 2007, titled "Intaka Tech - Due Diligence". Attached to this email is document titled "Due Diligence - Response to Outstanding Information". Included therein is a section titled "Commission payments and Agency Agreements" which contains the following:

"Monthly commission payable on Oxyntaka's – KZN?"

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*The commission in the budget for the Oxygen Generating units for the KZN tender was the anticipated commission as calculated by Dr Savoi. No contract for this has been finalised yet.*

Do you receive supplier tax invoices for commission paid?

*Yes, we only pay commission on the receipt of valid VAT invoices from our agents (if they are VAT registered).*

Details of outstanding commission accrual (R12m).

*This is commission payable related to the sale of 8 Water Purification Plants in the Northern Cape. The commission negotiated was R1m each (incl VAT) per unit to two agents (Watertech & Mapquest) – total commission of R2m (incl VAT) per unit. The outstanding commission at year end was R10,526,316, which is R12m nett of VAT. Since year end R3m (incl VAT) has been paid and the current liability is R7,894,737".*

9.213 Email from Bolton to Solomon dated 12 May 2008 with attachment "Intaka Tech memo as amended without tracking at 11 May 2008". The content of the email is as follows:

G23/20

*"As promised, I am updating you on the most recent developments concerning Intaka Tech in the form of a written memorandum that Raoul and I drafted for him to send to Dr Savoi (and in due course to a board meeting), the email I had sent him today following a conversation I had with him concerning the payments to Rowmoor and my email to Michele, who had also asked to be included in the loop".*

9.214 The above email follows on from an email from Bolton to Olckers dated 12 May 2008. The content of the email are as follows:

G23/20

*"As discussed, please see my email to Raoul de Lange of this morning concerning the payments to Rowmoor Investments 738 (Pty) Ltd as well as a copy of the memorandum which Raoul handed to and discussed with Dr Savoi*

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*yesterday evening (this is not the final copy but was the amended one Raoul and I had agreed upon prior to his meeting with Dr Savoi yesterday evening – I imagine there were few if any changes...)*

*In relation to such memorandum, as you will see the legal fees were not legal fees at all but, on the face of the information provided to Raoul by Alicia Marcos, a donation to the ANC, Dr Savoi apparently also categorised this as a donation to the party when Raoul spoke to him yesterday evening. This, of course, does beg the question though that if it was indeed a donation, why was it categorised as legal fees/expenses and how did the attorney's firm involved come to prepare an invoice allegedly in substantiation of this (on the face of it, the trigger for payment by Intaka Tech)? Perhaps Gary Eisenberg as the person who had been on retainer to provide legal services immediately prior to Raoul's arrival may be able to shed some light on this aspect if need be...*

*As you will see, Raoul is also in the process of arranging for a board meeting to be convened to deal with the first issue and, depending on the outcome of his investigations into the payments to the Rowmoor company, may also need to include this in the item for discussion by the board.*

*I am referring this matter to you so that you can take such steps as you may consider appropriate at this time. You will no doubt wish to discuss with Kevin and Selwyn in the context of possible reportable irregularities and related issues. Please let me know if I can be of any further assistance in such regard.*

*In the meantime, I will, obviously, stay in touch with Raoul and keep you posted on further developments. Raoul has mentioned that he thought it may assist if I were to be present at the board meeting when the relevant item is discussed but I await a formal invitation in this regard".*

- 9.215 Email from Olckers to Solomon dated 26 May 2008 containing minutes of the Intaka Tech Directors meeting on 14 May 2008. These are the same minutes previously referred to in paragraph.9.193 which were also included in the documents provided

G23/22

G23/24-26



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by Olckers.

9.216 It is evident from the above that Solomon was in possession of documents which contradicted each other as to what the reason for the R1,053,000 payment to Kuboni and Shezi was. Based on the documents provided by Olckers it appears that the documents supporting the fact that this was a "commission" rather than a "donation" was not shared with her by Solomon.

9.217 Col Du Plooy of the SAPS conducted a search at Kuboni and Shezi, 10<sup>th</sup> floor Salmon Grove Chambers on 24 March 2009 and seized the following:

- 1) A copy of a tax invoice dated 14 February 2007 referring to Intaka Investments. This copy was printed from the desktop computer by Alvina Matsau (Matsau) a secretary at Kuboni and Shezi and is the same as the invoice attached to Savoi's affidavit as "GS4". G5/1
- 2) A copy of a letter, dated 15 February 2007, addressed to Dr G Savoi, Intaka Investments (Pty) Ltd. This is the same as a copy located in the records seized from Intaka. This letter states that the tax invoice is enclosed and then sets out Kuboni and Shezi banking details as follows: G1/1  
G5/2  
G1/3

|                 |                 |
|-----------------|-----------------|
| Bank            | : Standard Bank |
| Branch          | : Main Branch   |
| Account Number  | : 050871994     |
| Branch Code     | : 040026        |
| Type of Account | : Current       |

9.218 A warning statement was taken from Kuboni on 6 May 2010 and while he declined to answer questions at the time, and did not provide the Investigating Officer with a statement or make himself available for questions despite undertaking to do so after he had consulted with his lawyer, he did subsequently provided the following documents to Col Du Plooy:

- 1) Copy of a letter to Dr G Savoi dated 14 February 2007. Apart from the date this letter is identical to the one referred to in para 9.204 2) above G6/1
- 2) Copy of the Kuboni and Shezi Tax Invoice to Intaka Investments dated G6/2

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14 February 2007 referred to in above. (This invoice is exactly the same as that seized from Intaka and attached to Savoi's affidavit apart from the fact that the words "period 2003 to 2006" have not been included in brackets after the description of the services provide).

- |    |   |      |
|----|---|------|
| 3) | Copy of a fax confirmation report confirming that a fax of 2 pages was sent to 021 7011914 at 18.31 on 14 February 2007.  | G6/3 |
| 4) | A copy of an email from Jeanne Fick to Kuboni and copied to Matsau. This email sets out the receipts and payments on the "Salamax" account "from beginning to our hand over". The account number is "1S150" and the period covered is 19 February 2007 to 16 March 2007. The seven payments recorded on this schedule are also recorded amongst the 24 payments referred to below. ( Kuboni showed me a copy of this email on his computer when Col Du Plooy was taking his warning statement). | G6/4 |
| 5) | Schedule titled "PAYMENTS MADE OUT : SALAMAX : S 150/06" which details 24 payments. Not all the payments on this schedule are dated and those that are dated are not recorded in any specific order. The payments are made out to 13 different entities; the earliest date is 19 February 2007 and the last date is 10 July 2007.   | G6/5 |

9.219 The SAPS subpoenaed Kuboni and Shezi Attorneys Trust account number 050871994 held at Standard Bank Greyville. The following documents were provided in response to this subpoena:

- |    |  |         |
|----|--|---------|
| 1) | Signing arrangements form dated 5 February 2007. Kuboni was the sole signatory.  | G7/1    |
| 2) | Signing arrangements form dated 31 May 2007. Any two of the following to sign jointly from 31 May 2007: Kuboni, Nozibele Priscilla Phindela (Phindela), Ian Buhlebakhe Blose (Blose) and Jabulani Langelihle Thusi (Thusi) | G7/4    |
| 3) | Special Power of Attorney of Kuboni.   | G7/7    |
| 4) | Copies of identity documents of Kuboni, Phindela, Blose and Thusi.   | G7/8-11 |
| 5) | Copies of bank statements from 26 January 2007 (statement 106) to 26 March 2008 (statement 120).   | G8      |
| 6) | Copies of paid cheques.  | G9      |

9.220 The SAPS subpoenaed Kuboni and Shezi Attorneys Business Account number

References in the margin refer to  
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050033077 held at Standard Bank Greyville. Copies of bank statements from 1 March 2007 (statement 137) to 27 March 2008 (statement 161) were provided in response to this subpoena.

9.221 The SAPS subpoenaed Welcome Sandile Kuboni's personal Money Market/Call account number 268608482 held at Standard Bank Greyville. Copies of bank statements from 2 January 2007 (statement 5) to 31 March 2008 (statement 10) were provided in response to this subpoena. G11

9.222 Mr Victor Fernandes of Victor Fernandes & Co, the auditor who was appointed by Kuboni to provide accounting services in respect of writing up and reconciling the accounting records for the Kuboni and Shezi Trust account for the year ended February 2007 and then for the period March 2007 to July 2007 was interviewed on 11 June 2010. The working paper files prepared by Fernandes & Co in respect of these services were provided to the SAPS. These files contained amongst other documents the following for trust account number 050871994

- 1) Cheque stubs for cheque numbers 102301 to 102424 inclusive. G12
- 2) Copies of the bank statements with hand written notes which, Jeanne Fick of Fernandes & Co informed me, are details of the trust creditor the receipt of payment relates to. This was subsequently confirmed by Matsau of Kuboni and Shezi who in some instances made these notes. G13

9.223 Matsau who is employed in a secretarial position which includes office administration at Kuboni and Shezi, stated the following during an interview on 24 June 2010, subsequently confirmed in an affidavit dated 8 July 2010, conducted by Col Du Plooy and myself: G14

- 1) She took instructions from Kuboni who was the director of the firm until March 2007 and from the new directors being Phindela, Thusi and Blose from April 2007 onwards.
- 2) Kuboni was responsible for Salamax as a client until he left the firm. He would have generally instructed her on this file. She became aware that Salamax is the client file for Mr S Shabalala. Mrs Shabalala would phone and asked that Thusi issue trust cheques, or be reminded to issue trust cheques, on behalf of G14/3

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Salamax. She personally spoke to Mrs Shabalala on occasions regarding this.

- 3) She wrote client reference numbers on the bank statements for the trust account on the instruction of the directors. A reference number was allocated to clients and it will indicate which clients must be debited or credited. During March 2007 Kuboni was the only Director and he would give her such instructions. G14/4
- 4) She wrote the handwritten reference "01/S150/07 Salamax" on the Kuboni's trust account bank statement next to the transfer of an amount of R200 00,00 on 16 March 2007. G14/4  
G14/30
- 5) Reference no. TRF181/07 was incorrectly written next to the R100 000, 00 on 23 March 2007 as that reference number belongs to a client named Nokutula Rosemary Dlamini. This R100 000,00 was a payment on behalf of Salamax. G14/4  
G14/30
- 6) Based on her knowledge of the handwriting of Kuboni and the current directors (Phindele, Blose and Thusi) the cheques stubs for the following cheques were either prepared by her or the director whose name is recorded next to the cheque number in the table below: G14/3

| Cheque no. | Author   |
|------------|----------|
| 102310     | PHINDELA |
| 102321     | PHINDELA |
| 102326     | MATSAU   |
| 102327     | MATSAU   |
| 102328     | MATSAU   |
| 102329     | MATSAU   |
| 102330     | MATSAU   |
| 102331     | MATSAU   |
| 102343     | THUSI    |
| 102353     | PHINDELA |
| 102356     | PHINDELA |

G14/14  
G14/16  
G14/17  
G14/18  
G14/18  
G14/19  
G14/19  
G14/20  
G14/21  
G14/26  
G14/27

- 9.224 Salamax 1608 (Pty) Ltd with registration number 2006/024729/07 was registered on 10 August 2006. The current status is recorded as in the process of deregistration. Shabalala is currently recorded as a non-active principal. He was appointed as a director on 11 August 2006 (date of registration) and resigned on what I interpret to be 13 May 2008. Shabalala was a director of this entity during the entire period (19 B6

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February 2007 to 2 August 2007) the payments were made by Kuboni, Phindela, Blose and Thusi to disburse the R1 053 000 received from Intaka.

9.225 Based on the aforementioned records relating to the Kuboni and Shezi Trust Account I have prepared a detailed analysis of the Trust Creditor known as "Salamax" with reference "S150/06". This analysis details the following:

**G15**

- 1) Bank Statement Date.
- 2) Cheque Date.
- 3) Cheque number.
- 4) Cheque Signatories.
- 5) Payee.
- 6) Amount.



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**Kuboni & Shezi Attorneys Trust Account - Standard Bank a/c No 050871994**

Trust Creditor : Salamax 01/S150

| Payment Number | Bank Statement Date | Cheque Date | Cheque No | Cheque Signatory 1 | Cheque Signatory 2 | Payee                      | Debit        | Credit         | Cumulative Balance |
|----------------|---------------------|-------------|-----------|--------------------|--------------------|----------------------------|--------------|----------------|--------------------|
|                | 01-Feb-07           |             |           |                    |                    | Opening Balance            |              |                | 0.00               |
| 1              | 20-Feb-07           | 19-Feb-07   | 102237    | Kuboni             |                    | Variquip CC                | 80,000.00    |                | 80,000.00          |
| 2              | 20-Feb-07           | 19-Feb-07   | 102241    | Kuboni             |                    | Trimbourne Agencies        | 30,000.00    |                | 110,000.00         |
| 3              | 21-Feb-07           | 19-Feb-07   | 102238    | Kuboni             |                    | Farmers Agricare           | 80,000.00    |                | 190,000.00         |
| 4              | 21-Feb-07           | 19-Feb-07   | 102239    | Kuboni             |                    | Yara SA (Pty) Ltd          | 38,209.23    |                | 228,209.23         |
| 5              | 22-Feb-07           | 19-Feb-07   | 102236    | Kuboni             |                    | Bell Equipment             | 72,586.50    |                | 300,795.73         |
| 6              | 12-Mar-07           |             | EFT       |                    |                    | Trf - Intaka Investments   |              | (1,053,000.00) | (752,204.27)       |
| 7              | 16-Mar-07           |             | EFT       |                    |                    | Blue Serenity              | 200,000.00   |                | (552,204.27)       |
| 8              | 23-Mar-07           |             | EFT       |                    |                    | Blue Serenity              | 100,000.00   |                | (452,204.27)       |
| 9              | 13-Apr-07           | 11-Apr-07   | 102294    | Kuboni             |                    | Variquip CC                | 33,047.96    |                | (419,156.31)       |
| 10             | 13-Apr-07           | 11-Apr-07   | 102293    | Kuboni             |                    | ER Browne Inc              | 113,471.33   |                | (305,684.98)       |
| 11             | 26-Apr-07           | 24-Apr-07   | 102302    | Kuboni             |                    | Trimborn Agency CC         | 33,745.50    |                | (271,939.48)       |
| 12             | 10-May-07           | 10-May-07   | 102310    | Kuboni             |                    | Bell Equipment             | 16,862.66    |                | (255,076.82)       |
| 13             | 25-May-07           | 23-May-07   | 102321    | Kuboni             |                    | Yara SA                    | 109,758.61   |                | (145,318.21)       |
| 14             | 06-Jun-07           | 30-May-07   | 102326    | Phindela           | Thusi              | Bell Equipment             | 14,526.34    |                | (130,791.87)       |
| 15             | 06-Jun-07           | 30-May-07   | 102330    | Phindela           | Thusi              | Natal Atrial Spray         | 7,292.40     |                | (123,499.47)       |
| 16             | 06-Jun-07           | 30-May-07   | 102331    | Phindela           | Thusi              | UCL                        | 10,506.30    |                | (112,993.17)       |
| 17             | 06-Jun-07           | 30-May-07   | 102327    | Phindela           | Thusi              | Variquip CC                | 7,714.44     |                | (105,278.73)       |
| 18             | 07-Jun-07           | 30-May-07   | 102329    | Phindela           | Thusi              | Gap Chemicals              | 5,768.40     |                | (99,510.33)        |
| 19             | 11-Jul-07           | 08-Jul-07   | 102328    | Phindela           | Thusi              | Community Watch            | 10,136.88    |                | (89,373.45)        |
| 20             | 11-Jul-07           | 10-Jul-07   | 102345    | Thusi              | Blose              | Variquip CC                | 9,553.09     |                | (79,820.36)        |
| 21             | 11-Jul-07           | 10-Jul-07   | 102351    | Thusi              | Blose              | Marin's Plumbing           | 3,398.00     |                | (76,422.36)        |
| 22             | 11-Jul-07           | 10-Jul-07   | 102350    | Thusi              | Blose              | Yara SA                    | 3,555.00     |                | (72,867.36)        |
| 23             | 11-Jul-07           | 10-Jul-07   | 102348    | Thusi              | Blose              | UCL                        | 6,093.99     |                | (66,773.37)        |
| 24             | 11-Jul-07           | 09-Jul-07   | 102349    | Thusi              | Blose              | Electro Technical Agencies | 2,017.00     |                | (64,756.37)        |
| 25             | 18-Jul-07           | 18-Jul-07   | 102343    | Thusi              | Blose              | Bell Equipment             | 4,000.00     |                | (60,756.37)        |
| 26             | 20-Jul-07           | 10-Jul-07   | 102356    | Thusi              | Phindela           | Community Watch            | 5,068.44     |                | (55,687.93)        |
| 27             | 02-Aug-07           | 02-Aug-07   | 102352    | Thusi              | Blose              | Umgeni Water               | 2,370.47     |                | (53,317.46)        |
| 28             | 02-Aug-07           | 02-Aug-07   | 102363    | Thusi              | Phindela           | Community Watch            | 5,068.44     |                | (48,249.02)        |
| 29             | 21-Aug-07           | 02-Aug-07   | 102361    | Thusi              | Phindela           | Trimborn Agency            | 37,314.00    |                | (10,935.02)        |
|                |                     |             | 102362    | Thusi              | Phindela           | Electro Technical Agencies | 14,140.00    | (1,053,000.00) | 3,204.98           |
|                |                     |             |           |                    |                    |                            | 1,056,204.98 |                |                    |

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- 9.226 It is evident from the above table that the respective directors of Kuboni and Shezi Attorneys were responsible, as sole signatory or joint cheque signatory, for the following number of payments:

| Directors | No of payments | Amount ( R ) |
|-----------|----------------|--------------|
| Kuboni    | 12             | 907,681.79   |
| Thusi     | 17             | 148,523.19   |
| Phindela  | 10             | 117,535.64   |
| Blose     | 7              | 30,987.55    |

- 9.227 The Kuboni and Shezi trust account reflects a credit transfer from Intaka Investments on 12 March 2007 in the amount of R1,053,000. This is a week after Intaka received payment from the Department of LG & TA in the amount of R44,563,636.40 on 5 March 2007. G8/11  
D33/3

- 9.228 Prior to the R1 053 000 being received on 12 March 2007, 5 payments were made from the Kuboni and Shezi Trust Account on behalf of Salamax. The details of the 5 cheques are as follows:

| Cheque No | Payee               | Amount (R)        |
|-----------|---------------------|-------------------|
| 102236    | Bell Equipment      | 72 586.50         |
| 102237    | Variquip CC         | 80 000.00         |
| 102238    | Farmers Agri-care   | 80 000.00         |
| 102239    | Yara SA (Pty) Ltd   | 38 209.23         |
| 102241    | Trimbourne Agencies | 30 000.00         |
|           | <b>TOTAL</b>        | <b>300 795.73</b> |

G9/5

G9/1

G9/3

G9/4

G9/2

- 9.229 The abovementioned cheques were dated 19 February 2007 and were negotiated by the various recipients on 20, 21 and 22 February 2007 which was more than 2 weeks prior to the R1 053 000 being received from Intaka. The effect is that Kuboni used other trust creditor's funds to make payments on behalf of Salamax before any money had been received on behalf of this client. G9/1-5  
G8/7

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9.230 The signature on the 5 cheques referred to above appears to be that of Kuboni, based on the fact that he was the only authorised signatory on the account at the time and the similarities between these signatures and his signature on the signing arrangements form. G7/1  
G9/1-5

9.231 All these 5 payments, as were the other 24 payments that were made to disburse the balance of the R1 053 000 when it was received, were for the benefit of entities in which Shabalala and or his wife Beatrice Shabalala had an interest or was a director.

9.232 The entities to which the 29 payments were made to disburse the R1 053 000 (in fact R 1 056 204.98 was paid out being R3 204.98 more than was received by Kuboni and Shezi Attorneys) can be summarised as follows: G15

9.233 Blue Serenity Investments

| Date      | Cheque No    | Amount (R)        |
|-----------|--------------|-------------------|
| 16 Mar 07 | EFT          | 200 000.00        |
| 23 Mar 07 | EFT          | 100 000.00        |
|           | <b>TOTAL</b> | <b>300 000.00</b> |

G8/12  
G8/13

9.234 The SAPS subpoenaed Blue Serenity Investments cheque account number 4067797521 held at ABSA Bank, Victoria Road, Pietermaritzburg. The following documents were provided in response to this subpoena:

- 1) Signing Instruction printout with signatories for the said account. Both Shabalala and Beatrice Shabalala are signatories for the said account. It appears from the signature cards that they have each signed erroneously next to the name of the co-signatory of the account. G18/1-2
- 2) Copies of bank statements from 5 March 2007 (statement 1) to 5 November 2010 (statement 43). The bank statements consist of 2 lever arch files and hence all have not been attached to this report. These are available if

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required. I enclose herewith copies of bank statement 1 which are relevant to the payments I referred to herein above.

G18/3-9

- 9.235 The Blue Serenity Investments bank statement reflecting ACB credit transfer in the amount of R200,000 on 16 March 2007. The bank statement reflects the name "Kuboni and Shezi Atto". The bank statement reflecting ACB credit transfer in the amount of R100,000 on 23 March 2007 and reflects the name "Kuboni and".

G18/3

G18/6

- 9.236 The Blue Serenity Investments cheque account was opened on 5 March 2007 and received the aforementioned two payments totalling R300,000 from the Kuboni and Shezi Trust account within two weeks of the account being opened. In addition to the above the Blue Serenity Investments bank statement does not reflect other large deposits during this first month apart from small deposits and reflects limited activity. The balance on the account at 31 March 2007 was R194,713.13

- 9.237 Variquip CC

| Date      | Cheque No    | Amount (R)        |
|-----------|--------------|-------------------|
| 19 Feb 07 | 102237       | 80 000.00         |
| 11 Apr 07 | 102294       | 33 047.96         |
| 30 May 07 | 102327       | 7 714.44          |
| 09 Jul 07 | 102345       | 9 553.09          |
|           | <b>TOTAL</b> | <b>130 315.49</b> |

G9/1

G9/6

G9/13

G9/16

- 9.238 Geoff Braithwaite ("Braithwaite"), who is a member Variquip stated in an affidavit that Variquip had issued various invoices to the Othandweni Family Trust for tractor spares and equipment and had received the above four payments for some of these invoices. He provided copies of the four receipts Variquip issued for the above payments which were made by Kuboni and Shezi:

G16

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| Date      | Receipt No   | Amount (R)        |
|-----------|--------------|-------------------|
| 20 Feb 07 | 40891        | 80 000.00         |
| 16 Apr 07 | 41537        | 33 047.96         |
| 07 Jun 07 | 42168        | 7 714.44          |
| 12 Jul 07 | 42614        | 9 553.09          |
|           | <b>TOTAL</b> | <b>130 315.49</b> |

G16/4

G16/35

G16/53

G16/62

- 9.239 Based on a review of the invoices provided by Braithwaite it is clearly evident that Variquip had supplied various tractor spares to the Othandweni Family Trust. While the invoices are made out to Othandweni Family Trust the credit application form records the Trading Name as "DSD Shabalala T/A Othandweni Farm" and the Individual as Dumisani Sipho Derrick Shabalala whose occupation is Civil Servant. This application form was completed on 17 October 2006 by Ntombi Shabalala who has a signature which is similar to that of Beatrice Shabalala, whose full names are Beatrice Otrina Ntombeuhle Shabalala.

G16/77

G16/78

9.240 Yara SA (Pty) Ltd

| Date      | Cheque No    | Amount (R)        |
|-----------|--------------|-------------------|
| 19 Feb 07 | 102239       | 38 209.23         |
| 23 May 07 | 102321       | 109 758.61        |
| 10 Jul 07 | 102350       | 3 555.00          |
|           | <b>TOTAL</b> | <b>151 522.84</b> |

G9/4

G9/8

G9/18

- 9.241 Jurgen Smith ("Smith"), the Cost and Financial Controller at Yara South Africa (Pty) Ltd stated in an affidavit that Yara had issued various invoices to Blue Serenity Investments for products delivered to them and received the following three payments for some of these invoices. He provided statements recording the three receipts Yara issued for the above payments which were made by Kuboni and Shezi:

G17

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| Date         | Amount (R)        |
|--------------|-------------------|
| 22 Feb 07    | 38 209.23         |
| 28 May 07    | 109 758.61        |
| 13 Jul 07    | 3 555.00          |
| <b>TOTAL</b> | <b>151 522.84</b> |

G17/3

G17/9

G17/16

- 9.242 Based on a review of the invoices provided by Smith it is clearly evident that Variquip had supplied fertilizer to Blue Serenity Investments. The invoices are made out to Blue Serenity Investments. The credit facility application form was completed on 30 November 2004 by Ntombenhle Shabalala, as a director. The signature is similar to that of Beatrice Shabalala. The application form records the directors as BON Shabalala and DSD Shabalala.

G17/21

G17/19

9.243 Bell Equipment

| Date      | Cheque No    | Amount (R)        |
|-----------|--------------|-------------------|
| 19 Feb 07 | 102236       | 72 586.50         |
| 10 May 07 | 102310       | 16 862.66         |
| 30 May 07 | 102326       | 14 526.34         |
| 09 Jul 07 | 102343       | 4 000.00          |
|           | <b>TOTAL</b> | <b>107 975.50</b> |

G9/5

G9/7

G9/10

G9/22

- 9.244 Jacquie Taylor ("Taylor"), the Credit Controller at Bell Equipment, Pietermaritzburg stated in an affidavit that Bell Equipment had issued various invoices to Othandweni Farm for products delivered to them and received the following three payments for some of these invoices. She provided copies of the said invoices.

G19

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| Date      | Cheque No    | Amount (R)        |
|-----------|--------------|-------------------|
| 19 Feb 07 | 102236       | 72 586.50         |
| 10 May 07 | 102310       | 16 862.66         |
| 30 May 07 | 102326       | 14 526.34         |
|           | <b>TOTAL</b> | <b>103,975.50</b> |

- 9.245 Based on a review of the invoices provided by Taylor it is clearly evident that Bell Equipment had supplied various spare parts and services to Othandweni Farm. While the invoices are made out to Othandweni Farm the Application for Credit Facilities form records the Registered Name of Applicant as "Dumisane Derrick Sipho Shabalala" and the Contact Person for the Account as "Ntombi Shabalala". This application form was completed and signed by "Ntombenhle Shabalala on 11 August 2005 and stated her Capacity of Signatory as "Farm Manager". Shabalala signed the application form as surety and co-principal debtor with the purchaser.
- G19/9-19  
G19/5  
G19/7

9.246 Trimbourne Agencies

| Date      | Cheque No    | Amount (R)        |
|-----------|--------------|-------------------|
| 19 Feb 07 | 102241       | 30 000.00         |
| 24 Apr 07 | 102302       | 33 745.50         |
| 02 Aug 07 | 102361       | 37 314.00         |
|           | <b>TOTAL</b> | <b>101 059.50</b> |

G9/2  
G9/30  
G9/26

9.247 Community Watch

| Date      | Cheque No    | Amount (R)       |
|-----------|--------------|------------------|
| 30 May 07 | 102328       | 10 136.88        |
| 18 Jul 07 | 102356       | 5 068.44         |
| 02 Aug 07 | 102363       | 5 068.44         |
|           | <b>TOTAL</b> | <b>20 273.76</b> |

G9/15  
G9/23  
G9/25

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**9.248 Electro Technical Agencies**

| Date      | Cheque No    | Amount (R)       |
|-----------|--------------|------------------|
| 10 Jul 07 | 102349       | 2 017.00         |
| 02 Aug 07 | 102362       | 14 140.00        |
|           | <b>TOTAL</b> | <b>16 157.00</b> |

G9/21

G9/27

**9.249 UCL**

| Date      | Cheque No    | Amount (R)       |
|-----------|--------------|------------------|
| 30 May 07 | 102331       | 10 506.30        |
| 10 Jul 07 | 102348       | 6 093.99         |
|           | <b>TOTAL</b> | <b>16 600.29</b> |

G9/12

G9/20

**9.250 Farmers Agri-care**

| Date      | Cheque No | Amount (R) |
|-----------|-----------|------------|
| 19 Feb 07 | 102238    | 80 000.00  |

G9/3

**9.251** Alistair van der Avoort ("van der Avoort"), the Financial Manager at Farmers Agri-care (Pty) Ltd stated in an affidavit that Farmers Agri-care had issued various invoices to "Shabalala Othandweni" for products delivered to them during the period 15 September 2006 to 10 August 2007 and received payment in the amount of R80,000 on 19 February 2007 for these invoices issued. He provided copies of the said invoices issued.

G20

G20/10-27

**9.252** Based on a review of the invoices provided by van der Avoort it is clearly evident that Farmers Agri-care had supplied various chemicals to Shabalala Othandweni. While the invoices are made out to Shabalala Othandweni the Credit Application Form records the entity as "Blue Serenity Investments". The form was completed and dated 9 September 2004 and the signature of the customer appears to be that of Beatrice Shabalala. Attached to the Credit Application form is a letter from Beatrice Shabalala to Farmers Agri-care marked for the attention of the Accounts Department

G20/10-27

G20/5

G20/8

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dated 22 July 2008. The letter reads that "Othandweni Farm or DSD Shabalala is now trading as Othandweni Family Trust" and requested that all future invoices be made out in the name of the trust.

9.253 One payment was made to each of the following entities:

| Date      | Cheque No    | Payee             | Amount (R)        |
|-----------|--------------|-------------------|-------------------|
| 13 Apr 07 | 102293       | ER Browne Inc     | 113 471.33        |
| 30 May 07 | 102330       | Natal Arial Spray | 7 292.40          |
| 30 May 07 | 102329       | Gap Chemicals     | 5 768.40          |
| 10 Jul 07 | 102351       | Martin's Plumbing | 3 398.00          |
| 10 Jul 07 | 102352       | Umgeni Water      | 2 370.47          |
|           | <b>TOTAL</b> |                   | <b>132 300.60</b> |

G9/28

G9/11

G9/14

G9/17

G9/24

9.254 I have not identified any payment made to the ANC out of the R1 053 000 as Savoi alleged the R1,053,000 was a donation to the party. Savoi also alleged that Shabalala was the person who raised the issue of "a donation to the party". The documents maintained by Kuboni and Shezi that record how the R1 053 000 received from Intaka was disbursed reflect that the money was in fact used for Shabalala's personal benefit in that it was either transferred to Blue Serenity an entity he jointly owns with his wife Beatrice Shabalala or to pay expenses of this entity or the Shabalala family expenses.

H7

9.255 The R1 053 000 was recorded in Kuboni and Shezi trust account records as being for the benefit of Salamax, an attempt by Kuboni to disguise for whose benefit the money was really being held. It is however clearly evident from the disbursements made by Kuboni, Phindela, Blose and Thusi from the R1 053 000 that it was for Shabalala and Beatrice Shabalala and had nothing to do with the ANC.

9.256 Beatrice Shabalala, as Shabalala's business partner, knew or ought to have known

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the source of the R1 053 000, that it was illegally obtained and that she was helping launder these funds and was directly benefiting as a result thereof.

9.257 Wills submitted a letter dated 2 February 2010 to Adv W O'Brien, Deputy Director of Public Prosecutions. This letter titled "Investigation Re Durban Central CAS 1538/01/09" is written on behalf of his client the ANC after consulting with Mabuyakhulu who is a senior member of the ANC and the Provincial Treasurer at the time. H1

9.258 It is evident from this letter that Mabuyakhulu confirms:

- i. He was the Treasurer of the ANC in KZN at all material times;
- ii. Having received R1 million (and not the full R1 053 000 as originally paid to Kuboni and Shezi by Intaka);
- iii. The R1 million was received in cash and verified to be R1 million;
- iv. The R1 million was used for various purposes related to the KZN ANC Provincial Conference which took place between 20 – 22 June 2008 (and must therefore have been received prior to this date);
- v. His stance and that of the ANC is that under no circumstances does the ANC wish to compromise its donors and / or its operations by disclosing information concerning same (assumed to refer specifically to the donors names and that is the reason why details of the donor are not included in this letter);
- vi. The R1 million donation was recorded in the Treasurer's report to the conference and included in the globular amount of R7 227 707 listed as donations in the income statement (assumed to refer to the year ended 29 February 2009).

9.259 At the time of writing this letter Wills should have been fully aware, as was Mabuyakhulu, that the R1 million originated from Intaka an entity that had done

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business with the Department of LG & TA of which Mabuyakulu was the MEC at the time. In this position he signed various documents which referred to Intaka and the reasons why they should be appointed to supply the water purification plants.

9.260 In fact some 10 months prior to this on 4 May 2009 Delani Mzila (Mzila), who Wills refers to in his letter dated 2 February 2010, signed an affidavit which he later says was drafted by the ANC's attorneys Ngubane Wills Inc. In this affidavit Mzila states amongst other things the following: H2

- i. He is the finance manager for the ANC in KZN and was appointed in September 2008;
- ii. Confirms receipt of the donation of R1 million from a donor, who he was advised was Dr Savoi;
- iii. Shabalala "advised the organisation that such a donation had been made, and, when the money was requested, Mr Shabalala brought the money to our offices in cash";
- iv. Aware that the money was used to pay for items related to the provincial congress held in August 2008.

9.261 Mzila however signed a further affidavit dated 30 August 2010 wherein he stated the following which is significant: H3

- i. *"As a financial manager my duties and responsibilities involved Financial Management and Bookkeeping;*
- ii. *When we receive donations we follow ANC internal processes;*
- iii. *A while after the conference I was approached by former Provincial Treasurer Mr Micheal Mabuyakhulu. He asked whether I had noticed that certain items of the budget for the conference have not been paid for by the ANC Provincial Treasurer's office and further informed me that these items had been paid for by donations money;*
- iv. *A few weeks later late I received a call from Miss S Ngubane Wills Incorporated advising me that there is a matter under investigation by South*

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*African Police Services Commercial Crime relating to donations received by the ANC KZN. She further advised that she is acting for ANC KZN in the matter and she asked me to sign an affidavit that she prepared giving the circumstances of the donation;*

- v. *In my discussions with the Provincial Treasurer Mabuyakhulu, no amount or names were mentioned, save for saying items were paid for from money received in the form of donation. I have no knowledge of the donation;*
- vi. *I have been under the impression that the lawyer investigated this matter and that she verified all the details provided in the affidavit. I therefore became aware of the amounts and persons involved through the prepared affidavit".*

9.262 The financial statements of the ANC KZN province for the year ended 31 March 2009, a copy of which was provided to the SAPS by Wills and extracts of which are attached to this report, contain the following accounting policy for income:

*"Income comprises councillors' levies, regional fees, donations, grants, rent and interest and is accounted for on a cash basis."*

H4/4

9.263 The qualified report of the independent auditors, Manase & associates, includes the following:

*"In common with similar organisations, it is not feasible for organisations to institute accounting controls over cash collections from donations prior to the initial entry for collections in the accounting records. Accordingly, it was impracticable for us to extend our examination beyond the receipts actually recorded."*

H4/3

*Except for the effects of any adjustments which might have been necessary had it been possible for us to extend our examination of cash collections from donations, in our opinion, the financial statements fairly present the financial position of the African National Congress KwaZulu-Natal Province at 31 March 2009 and the results of its*

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*operations and cash flows for the year then ended in accordance with South African Statements of Generally Accepted Accounting Practice."*

- 9.264 To date I have not received a copy of a receipt issued by the ANC when it allegedly received the R1 million. This is despite it being requested by SAPS. Mabuyakhulu has however stated that no receipt was issued and Savoi states in his affidavit as follows:

*"I have no knowledge of what happened to this money once it had been paid to the attorneys and do not know whether the party in fact received it – I have had no acknowledgement of this."*

B1/9

- 9.265 It is also evident from the Intaka auditor's working papers that they never saw any proof that the ANC received the donation.

- 9.266 Mabuyakhulu in an affidavit dated 19 October 2010 states that during his tenure as Provincial Treasurer of the ANC he was, inter alia, responsible for fund raising for the ANC. During 2005 he made a call to the ANC leadership and members to fundraise on behalf of the ANC. The funds were required for the ANC's day to day administration and for the ANC Provincial Conference which was to take place in June 2008. Shabalala was one of those who undertook to raise funds on behalf of the ANC and approximately two months (which would have been in April/May 2008) prior to the conference he informed Mabuyakhulu that he had fundraised and wished to pay the funds to the ANC. Shabalala handed him R1 million in cash, to the best of his recollection on 11 June 2008, when he was still the ANC Provincial Treasurer and that no receipt was issued therefore.

H5

- 9.267 He goes on to say in his affidavit that it is not the ANC's policy to disclose where private donations are received from nor is it policy to disclose how the funds are spent or disbursed. He does however say that the funds were used by him to defray

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expenses arising from the then upcoming June 2008 conference and that the funds were used by him in his capacity as Provincial Treasurer at the time.

9.268 He states that a new Provincial Treasurer was elected in June 2008 and he has was not responsible for the manner in which the R1 million donation was treated in the next financial statements and cannot specifically say if the donation was included in the R7 227 707 listed as donations in the annual financial statements for the year ended 29 February 2009 or if it was included in the Treasurer's report to the Provincial Council. This contradicts what Wills stated in his letter dated 2 February 2010 after consulting with Mabuyakhulu "... save to say that the particular donation was included in the report to the conference in the Treasurer's report. Specifically it was included in the globular amount of R7 227 707 listed as donation in the income statement."

H1/2

9.269 If the ANC had followed its own internal processes, as set out by Mzila and in the financial statements, and the R1 million donation was received by the ANC, a receipt would have been issued and the donation of R1 million would have been accounted for in the records of the ANC. The fact that the donation was made by Intaka is well known and it would not have compromised the ANC's donors or their operations if the evidence of the receipt was provided.

9.270 The fact that no evidence of the alleged receipt, apart from representations made on behalf of and by Mabuyakhulu or by Mzila on Mabuyakhulu attorney's instruction, has been made available for review can only be because the money was never received by the ANC or if it was Mabuyakhulu kept it outside the accounting system and mislead the ANC members and auditors in this regard. I can see no reason from an accounting perspective for the donation to be kept out of the ANC's accounting records unless it was not received or there was a reason to hide the source of these funds even although they had already been laundered through Kuboni and Shezi's Trust Account and Shabalala and Beatrice Shabalala's business entities.

H7

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- 9.271 No explanation has been provided by Mabuyakhulu as to why it took some 14 months from the date Intaka paid the donation to Kuboni and Shezi for the donation to allegedly be received by the ANC or what happened to the interest earned on this money during the 14 months or what happened to the R53,000, being the difference between the R1,053,000 paid by Intaka and the R1 million allegedly received by the ANC .
- 9.272 If the money was received by the ANC, and was accounted for, it had to have been received after 1 April 2008 (as donations of only R334 640 was received in the year ended 31 March 2008) and before 20 June 2008 (the date of the KZN provincial Conference for which the funds were allegedly used). Mabuyakhulu has stated that it was received on about 11 June 2008. H4/5
- 9.273 Based on the explanation provided by Mzila regarding the discussion he had with Mabuyakhulu, a while after the provincial conference, about the donations used to fund certain expenses it is evident that the issue of the receipt of this donation of R1 million and the creation of an explanation for the non accounting therefore was only started after Margaret Kruger ("Kruger") made enquiries in May 2008, and that Mabuyakhulu has played a significant role in assisting Shabalala with creating a scenario, no matter how improbable based on the documents, to support Savoi's explanation that the donation was to the ANC. H6
- Summary of Findings**
- 9.274 Detailed below is a summary of significant findings from the investigation conducted into the procurement of Water Purification Plants by the Department of LG & TA:
- 1) In terms of Savoi's affidavit he arranged a fact finding visit to South America for a delegation from KZN to view the self- generating oxygen and water purification plants, that took place from 20- 23 March 2004, and included Shabalala. Upon B1

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- return to South Africa the KZN delegation indicated it was interested in both products, the key persons in the process of further discussions being Shabalala and Professor Green Thompson (HOD KZN Department of Health at the time).
- 2) An entity known Skyros Medical Supplies (Pty) Ltd, registration number 2004/010238/07 was registered on 20/04/2004, the Active Principals are Gaston Savoi id 521226 0000 000 and Beatrice Ntombenhle Otrina Shabalala id 690119 0332 083, both appointed on 20/04/2004. The latter is the wife of Sipho Shabalala. B4
  - 3) An entity known as Blue Serenity Investments (Pty) Ltd trading as City Royal Hotel with registration number 2003/031649/07 was registered on 17 March 2003. The current Active Principals are: B5
    - i. Dumisani Sipho Derrick Shabalala id 651019 5396 082 of 11 Bonanza Road, Pietermaritzburg appointed on 9 January 2004; and
    - ii. Beatrice Otrina Ntombenhle Shabalala id 690119 0332 083 of 11 Bonanza Road, Pietermaritzburg, appointed on 9 January 2004.
  - 4) An entity known Salamax 1608 (Pty) Ltd with registration number 2006/024729/07 was registered on 11 August 2006. The current status is recorded as "deregistration process". Dumisani Sipho Derrick Shabalala id 651019 5396 082 of Othandweni Farm, Greytown Road, Pietermaritzburg is recorded as a non- active principal. He was appointed on 11 August 2006 (date of registration); and resigned on what I interpret to be 13 May 2008. B6
  - 5) On 9 May 2005 Shabalala sent a memo to Dr Mkhize titled "Proposal to Supply Gas Generating Equipment and Water Purification to the Province." As far as the Water Purification plants are concerned Shabalala recommended that an amount of R22 million be allocated from the Poverty Alleviation fund (22 units at a cost of R1 million each) to provide water generating equipment to all the municipal districts. D1/1-3
  - 6) On 27 June 2005 Intaka sent a letter titled "Wataka Transportable Water Purification Plant" to Shabalala, Provincial Treasury signed by Savoi. He quoted an amount of R1,935,720 for the supply of one (1) x Wataka 50, Transportable D1A
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Water Purification Plant. The amount included VAT and Freight to Greytown.

- 7) On 7 July 2005 Intaka sent a letter titled "Request for Proposals on Wataka Equipment" to Shabalala, Provincial Treasury signed by Savoi. He provided an introduction and listed the advantages of the Wataka. On page 6 Intaka quoted an amount of R1,965,000 ex works Cape Town excluding VAT for the supply of twenty two (22) x Wataka 50's. The said price included a generator and raw water pump, but excluded freight, civil works (if requested) and chemical process, the latter being included in the operating cost of R0.0006 per litre. Thus, the price had increased within a period of ten days and it also excluded transportation costs previously included. The delivery period was split over a period of 90 days from date of order, provided all 22 units were ordered simultaneously. The price was valid until 15 December 2005. There is no indication as to sites where the plants would be commissioned and the costs involved in transportation/delivery and the civil works. D2
- 8) There is no evidence of any involvement or reference to the KZN Department of LG & TA, the Departments Supply Chain Management Component or Infrastructure Development Component; that they had requested a quotation for 22 water purification plants and that they had provided specifications for the plants. There is no evidence that any other potential supplier was requested to provide a quotation. Intaka concluded in their quotation dated 7 July 2005 as follows: *"My approach to introducing this facility in South Africa is not merely of equipment sales but goes further to investing towards creation of a manufacturing base in South Africa, and particularly on the Province of KwaZulu-Natal as I believe this is the best base to do so. As a foreign investor, I have great belief in South Africa and it's potential and I believe by investing in this manufacturing facility it could play a significant role in respect of job creation and social development in this country".* D2/7
- 9) On 11 July 2005 Shabalala sent a further memo to Dr Mkhize titled "Allocation of R43 million towards water purification and processing plants in District Municipalities." This memo states that specific costing details have been obtained D2A/1-2

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and that 22 units will cost R43.23 million. No explanation is given as to why the cost has increased from R22 million (memo dated 9 May 2005) to R43.23 million. The memo states that the poverty alleviation fund caters for funding this type of infrastructure and he requests the Minister to approve that an amount of R43 million be allocated to the Department of Economic Development.

- 10) On 15 July 2005, being a week after Shabalala had received the 2<sup>nd</sup> quotation from Intaka and 4 days after Shabalala's memo to Dr Mkhize, the MEC of Finance and Economic Development sent a letter to the MEC of LG & TA requesting he consider the establishment of an inter- departmental team to consider the purchase of water purification plants in district municipalities to be funded from the Poverty Alleviation Fund. This was forwarded to Gumbi- Masilela on 26 July 2005 by the Office of the MEC for LG & TA. D3/2-3  
D3/1
- 11) On 31 August 2005 Shabalala sent a letter to Gumbi- Masilela and referred to the letter of the 15 July 2005 as discussed above. He included the fact that as they were approaching mid- year in the financial year, there is considerable urgency to allocate and expend the funds in question, otherwise they would be left with unspent funds at the financial year- end. He further requested a meeting between himself, Gumbi- Masilela and Pupuma of Economic Development be set up in the next 2 weeks, to finalise a recommendation to the MEC's on how the project should proceed. D4
- 12) An Inter- Departmental Task Team was then formed headed by the late Dorning of Provincial Treasury. They conducted 3 meetings on 26 September 2005, 3 October 2005 and 7 October 2005. A number of significant issues were raised including the necessity to perform a comprehensive needs analysis and consideration for the purchase of the water purification plants to be sent out to tender. The Department of Water Affairs was requested to attend the meeting of 7 October 2005. Badenhorst of the said Department raised a number of technical aspects for consideration. The meeting concluded that a proposed document tabled by Dorning outlining the process of implementation, once finalised and amended would be submitted to the relevant signatories. The meeting was held D5A-C

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- on Friday 7 October 2005. It was evident significant work still needed to be done.
- 13) A number of Department of LG & TA officials including Maduna, Evetts and Poveil have stated that it was already a forgone conclusion that Intaka had been awarded the order for the water purification plants and that it was never a consideration that the matter would go out to tender, despite the Task Team discussing same. In addition the project was "dumped" on the Department by Treasury. The documentary evidence reflects Shabalala dealt exclusively with Intaka. E1,E2,E3
- 14) A joint Memo dated 10 October 2005 was then signed by Shabalala, Gumbi-Masilela and Pupuma, this being on the Monday following the meeting of the Task Team on Friday 7 October 2005. I am unable to determine how the document was finalised and the issues raised by the Task Team resolved over the weekend in question, due to the passing of Dorning. D6
- 15) A number of deadline dates for completion of various phases was included in the aforementioned joint Memo; Evetts being the Department of LG & TA Project Manager stated that he had no input into these dates and largely they were unreasonable and unachievable. Pupuma stated that this was Shabalala's document as he was the champion of the project. Gumbi-Masilela in a document at a later date 1 September 2006 stated that her Department was not party to the initial negotiations, quotations and budgetary allocations. E1  
E7  
D21
- 16) The added benefit to the Province in respect of the establishment of a manufacturing plant in KZN by Intaka is included in paragraph 4. The phases included obtaining a waiver of tender requirements approval from the CPC, with the assistance of Treasury by the Department of LG & TA, by 15 November 2005. The application for waiver was subsequently made by Gumbi-Masilela on 16 November 2005 to the Chairperson of the CPC. The document detailed the background into the matter, similar to that contained in the joint Memo, however it failed to motivate why Intaka was the only supplier capable of providing the equipment and that the urgency of the matter was of such a nature that the calling for tender requirements needed to be waived. D6/2  
D6/3  
D8/1-4

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- 17) The CPC approved the waiver by way of a "round robin". Shabalala was the Chairperson of the CPC; he supported an application that he had been party to: he had obtained the quotations from Intaka; he was the person liaising with Intaka; he had compiled the joint Memo and signed as Head Provincial Treasury; and was the driver and champion of the project. The following members of the CPC commented and provided explanations when interviewed:
- D8/5-11  
D8/6
- i. Carol Coetzee commented that *"more info on how the particular supplier was selected would be useful"*. She stated that she made this comment as the application fell short of this and this would have been useful as it would have revealed whether other quotations had been obtained or whether Intaka were sole suppliers of the water purification plants. She added that there is a requirement that regardless of the waiver, it is the responsibility of the Applicant Department to ensure that they are receiving value for money. In the event that the supplier is a "sole supplier" the application would then have to be sufficiently motivated. In this instance Intaka would not appear to be a sole supplier.
- D8/8  
E9
- ii. Hermann Conradie commented that *"I have no problem with the waiver as an urgent case but the market should have been tested"*. He stated that this was not a waiver for the applicant to disregard testing the market; it was still a requirement that the Department should have determined before engaging Intaka that they were receiving value for money. It was evident that the Department had already decided that Intaka would be awarded the order. He added that his comments were made to ensure this had been complied with, as a member of the CPC he would assume that it had been done. He further also believed that a needs analysis had been done by the Department and that suitable sites had been identified in the communities where these water purification plants were to be used.
- D8/9  
E10
- iii. L Moloi commented that *"Information provided not entirely satisfactory, however the need and desirability for the project implementation is admissible"*. I have not interviewed Moloi as I am unaware of his current
- D8/10
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whereabouts. I concur with his comments that the information provided is incomplete particularly on how Intaka was selected and where specifically the plants were to be installed and commissioned, that required the matter to be treated as urgent.

- 18) The decision of the CPC was ratified at their meeting of 2 February 2006, where concerns were expressed that the market price should have been tested. This was questioned by Gumbi- Masilela in her letter to Shabalala dated 3 February 2006. Shabalala did not reply personally, but Dorning on behalf of Shabalala replied in his letter dated 13 February 2006, after SA Mhlangu of SCM Provincial Treasury provided Dorning with an explanation on his interpretation of whether the market price should be tested. Dorning's reply was: *"It is clear that the CPC's reference to 'the market price should be tested' was only meant to refer to the ideal situation, which would apply in normal circumstances where time is not an issue and where waiver of tender is not required"*. As previously stated Dorning is now deceased and SA Mhlangu has left Provincial Treasury and his whereabouts are unknown. Coetzee stated in her affidavit that neither Mhlangu nor Dorning were members of the CPC and as such were not authorised to comment on how the CPC would have responded to the request for clarification by Gumbi- Masilela. Mhlangu was as a member of SCM entitled to sit in on the meetings of the CPC, but was not a member. The minutes of 2 February 2006 reflects he was not present at the said meeting representing the Procurement Office.
- 19) The commitment by Intaka to establish a manufacturing plant in KZN was addressed by Dorning in his letter to Pupuma dated 16 February 2006.
- 20) The issue of VAT not being included in the R43million approved by the CPC was addressed by Savoi in his letter to the Department of LG & TA dated 16 March 2006.
- 21) Gumbi- Masilela prepared a 2<sup>nd</sup> application for waiver of tender procedures to the CPC on 1 June 2006, for an additional amount of R1,563,636.40, being the VAT on the purchase of 20 plants and no longer 22 plants. This was approved by the CPC chaired by Shabalala on 2 June 2006. The CPC also requested the

D11/1-17

D11/18-19

E9

D11/1

D13

D16

D16

D17

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- Department of LG and TA to pursue Intaka's commitment for the establishment of a manufacturing facility in KZN. The said request of the CPC was repeated in Coetzee's letter to the Department of LG & TA dated 5 June 2006; the latter did not pursue this as they believed it was the function of the Department of Economic Development in terms of the agreement included in the joint Memo dated 10 October 2005. The said Department did not pursue the establishment of a manufacturing facility in KZN with Intaka. Coetzee confirmed the request of the CPC on 2 June 2006 and her letter dated 5 June 2006, in her affidavit **D18/2**
- 22) The Department of LG & TA issued order number N 642517 to Intaka in the amount of R44,563,636.40 for 20 water purification plants on 5 June 2006. This followed a Requisition for Supplies no. B126264 issued on 15 March 2006. **C1/1**  
**C1/2**
- 23) Intaka informed the Department of LG & TA that the plants were ready in their letter dated 6 June 2006. The first list of where the plants were to be installed was issued by Gumbi- Masilela to Evetts on 4 July 2006. Intaka advised the Department again that the "Watakas model 050" were ready to be collected by the Department in their letter dated 11 July 2006. **D19/1**  
**D19/2**  
**D20/1**
- 24) The issue surrounding the costs involved in transportation, site preparation and plant installation, not previously planned or budgeted for was first addressed by Gumbi- Masilela in her letter to Shabalala, prepared by Evetts dated 1 September 2006. Intaka questioned the status of acquiring additional funds or alternatively supplying 18 plants in their letters to Evetts dated 6 and 11 September 2006 respectively. The application by Gumbi- Masilela to Shabalala did not proceed as the additional funds in the amount of R5,617,919.40 was provided by the Department of LG & TA and approved by Gumbi- Masilela on 11 November 2006. I am not in possession of any documents indicating Shabalala received or replied to the application in question. **D21**  
**D22**  
**D24/6**
- 25) Evetts had also prepared a Submission recommending the cancellation of the existing order with Intaka to accommodate the additional cost of R5,617,919.40 on 10 October 2006. This document appears not to have proceeded beyond Johnson who questioned: **D23**  
**D23/5**

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- i. If the plants were to be manufactured in KZN then why were there transport costs;
- ii. Is the Department sure that the areas where the plants were to be distributed had raw water sources, pure water storage and reticulation systems in place.
- 26) Intaka received a further order number N 00755793 in the amount of R5,617,919.40 on 15 November 2006 for *"balance of purchase of 20 Wataka Model 050 Plants (inclusive of VAT) @R2,447,061.79- R2,228,181.82, supply of 20 Lots chemicals (1 month supply)." C2*
- 27) A further list of where the plants were to be installed was issued by the Ministry of LG & TA in their letter to Gumbi- Masilela dated 27 November 2006. D27/2
- 28) Evetts prepared a progress report in his Submission to the HOD of 12 December 2006 and included the following in paragraph 5 *"As per the discussions with the Head of Department today, the following is confirmed": (a) "as this project is a Ministerial intervention, plants will be installed at the sites as confirmed by the Ministry in their letter of 27 November 2006" and he adds "Consensus with the Water Services Authority is not a pre- requisite". Evetts stated that he recalled having a telephonic discussion with Gumbi- Masilela prior to compiling this Memorandum. She told him somewhat crudely to proceed irrespective of the opinion of the Water Services Authority. Based on this instruction he included it in the Memorandum. Significantly 1 year after the waiver had been authorised by the CPC not 1 of the 20 plants had been delivered and commissioned. D29/5*
- 29) Kuhn visited Intaka in Cape Town on 6 February 2007 after being instructed by Gumbi- Masilela to do so and reported that he had been shown 18 completed units as well as 6 units in various stages of construction. This occurred as Intaka were demanding payment for the manufacture of the plants in the amount of R44,563,636.40. Intaka issued their invoice no. 253 dated 6 February 2007 for the *"purchase" of 20 "Wataka water purification units model 050" in the amount of R2,228,181.82 each, totalling R44,563,636.40. C1*
- 30) An Agreement was entered into between the Department of LG & TA and Intaka D32
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- on 9 February 2007 for the purchase of 20 plants in the amount of R44,563,636.40 and for the preparation of sites for delivery of the plants, and the delivery, installation, and commissioning of the plants in the amount of R5,617,919.40.
- 31) On 7 March 2007 the Department of LG & TA made payment of R44,563,636.40 for the manufacture of the plants that were in terms of Kuhn's report stored in Cape Town. D33
- 32) There were issues regarding the delivery of the Watakas and from an accounting perspective the Revenue had still not been earned by Intaka for the sale of 12 of the Watakas and it was therefore not recognised in the financial statements as a sale at 28 February 2008, even although the money had been received. It was treated as deferred revenue. This is despite the fact that Dr Savoi had gone to great lengths to convince, and was successful in this regard, the Department of LG & TA that they had "delivered" in terms of the contract and that payment should be made (which it was on 7 March 2007). However the auditors of Intaka were not satisfied that the revenue for this sale had been earned at 28 February 2008 (almost a year later) and therefore it could not be recorded as revenue in the financial statements for the year ended 28 February 2008.
- 33) On 12 March 2007 Intaka paid Kuboni R1,053,000 allegedly being a donation to the ANC that was requested by Shabalala from Dr Savoi, as detailed in Dr Savoi's affidavit. This followed the presentation of a fictitious Kuboni and Shezi invoice dated 14 February 2007 allegedly for legal services sent under Kuboni covering letter dated 15 February 2007. G3/3 &  
G8/11  
B1  
G1/1&3
- 34) The Intaka records, and those of Mazars, detail how the payment to Kuboni was first classified as legal fees, reclassified as consultancy fees and ultimately as a donation. G2
- 35) Olckers did not disclose all the information she had at her disposal regarding the R1 053 000 when she sent her letter to IRBA dated 25 June 2008 and as a result it was possible for the Reportable Irregularity to be cleared by merely reclassifying the payment as a donation and refunding the VAT that had been

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- claimed. Had further information been included in the report to IRBA they may have considered it necessary to report this matter to the "appropriate regulator", which in this case is the Director of Public Prosecutions.
- 36) Solomon received an email from Laubscher on 17 May 2008 which contained a breakdown of budgetted commission to be paid. Included in the commission of R39,353,000 was the R1,053,000 payment to Kuboni and Shezi. G23/9
- 37) Solomon knew that Intaka was paying or was planning to pay significant commissions relating to sales of Watakas and Oxyntakas to government entities. G23/9
- 38) Kuboni and Shezi commenced disbursing the R1,053,000 against their client Salamax, linked to Shabalala and his wife Beatrice Shabalala on 19 February 2007, being after 14 February 2007 the date of their invoice to Intaka, but prior to Kuboni and Shezi receiving the payment on 12 March 2007. This initial disbursement consisted of 5 cheques dated 19 February 2007 amounting to R300,795.73 in favour of various suppliers. These 5 payments and a further 24 payments made by Kuboni and Shezi amounting to R1,056,204.98, which is R3,204.98 more than was received by Kuboni and Shezi from Intaka, were for the benefit of entities in which Shabalala and/or his wife Beatrice Shabalala had an interest or was a director. This included 2 EFT payments to Blue Serenity Investments bank account; Shabalala and Beatrice Shabalala are directors of this entity, amounting to R300,000. G9/1-5  
G9  
G8/12-13
- 39) The various directors and cheque signatories of Kuboni and Shezi, being Kuboni, Phindela, Thusi and Blose were involved in disbursing the R1 053 000 for the benefit of Shabalala and Beautrice Shabalala.
- 40) I have not identified any payment to the ANC out of the R1,053,000 as Savoi alleged this was a donation to the party. Savoi also alleged that Shabalala was the person who raised the issue of "a donation to the party". Kuboni attempted to disguise the true beneficiary of the money by allocating it to Salamax in the trust account records, whereas the true beneficiaries were Shabalala and his wife, and this had nothing to do with the ANC. C1
- 41) Mabuyakhulu alleged that he received R1 million in cash from Shabalala on H5

References in the margin refer to  
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**Report of Trevor White**  
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behalf of the ANC (and not R1,053,000). There is no other evidence that the said money was received by the ANC and I have to date not been provided with a copy of a receipt issued by the ANC confirming receipt of R1 million.

Mabuyakhulu has further not provided any explanation as to why it took 14 months from the date Kuboni received the R1,053,000 from the Intaka being 12 March 2007, until 11 June 2008 when Mabuyakhulu alleges he received R1 million from Shabalala. The latter only occurred after Margaret Kruger made her enquiries within the ANC regarding the donation in May 2007 as it was subject to an investigation by the DSO.

H6

42) AB Projects Consultants cc entered into an Agreement on 13 August 2007 to provide Support to the General Manager: Municipal Infrastructure, effective 25 July 2007, in the amount of R100,000 being the capped amount approved by Gumbi- Masilela. They issued 2 reports; the last being on 3 October 2007. In terms thereof 5 projects had been completed and were functional; 3 projects were classified as work in progress; and 11 projects were in a feasibility stage. This amounts to 19 plants. They concluded their report with "Recommendation and Conclusion" summarised as follows:

E4

- i. 5 plants have been installed at existing water treatment sites;
- ii. In rolling out the programme, there has been an oversight in that additional infrastructure requirements for a fully functional water treatment plant were omitted, including power, abstraction systems, storage reservoirs and reticulation networks;
- iii. It was recommended that the Department approve a further R7,075 million for capital works to complete a further 9 water treatment plants;
- iv. The remaining 4 units in Umkhanyakude will require more time to investigate and find alternative water sources and has not been included in the above budget.

43) Intaka subsequently issued 2 invoices to the Department for payment in respect of the installation and commissioning (and I assume transportation) of 8 plants on 16 August 2007 and 6 November 2007. Hence, as at 6 November 2007 8 plants

C3-C4

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- had been delivered and commissioned.
- 44) Johnson questioned the terms and conditions of the agreement between the 2 parties in his letter to Intaka dated 6 February 2008, including the question of the purchase of the 20 plants being conditional upon the establishment of a manufacturing plant in KZN. Various correspondence between Johnson and Intaka and Johnson and Provincial Treasury followed during the period 19 February 2008 and 6 May 2008. Johnson concluded that the matter was closed based on the fact that the price quoted by Intaka was ex- works Cape Town and hence it is clear the plants were to be manufactured in Cape Town. He was unaware of what transpired in 2005 with Trade and Investment KZN and was not part of any discussions with Intaka and/or Trade and Investment KZN. Johnson had requested a reply from Shabalala in his correspondence with Provincial Treasury as he was a signatory to the joint Memo, however the latter delegated the query from Johnson to Mvelase.
- 45) The quotation submitted by Intaka to Shabalala dated 7 July 2005 quoted the price of the plants ex- works Cape Town, but concluded with an undertaking to establish a manufacturing plant in KZN. It therefore is apparent that their intention was to manufacture the 22 plants in Cape Town and if they were awarded an order for 22 plants then they would establish a manufacturing plant in KZN. This was also included in the joint Memo and the Submission to the CPC by Gumbi-Masilela that was chaired by Shabalala as previously stated.
- 46) A First Addendum to the Agreement of 9 February 2007 was entered into between the 2 parties on 27 March 2009.
- 47) Only 8 sites had as at 28 July 2009 been delivered and commissioned in terms of the minutes of a meeting held between the Department of LG & TA and Intaka of the same date.
- 48) During the period 18 September 2009 to 17 May 2010 various correspondence between the Department of LG & TA's legal services, Attorneys Ngubane Wills Inc representing the Department of LG & TA and Intaka's legal representatives resulted in the signing of a Second and a Third Addendum to the main

D34

D35-D38

D35

D6

D2

D35

D8

D39

D40

D41- D49

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Agreement between the 2 parties. The Department agreed to additional costs as detailed below:

- i. R15,000 (excl VAT) per month for storage fees in respect of the remaining 10 plants manufactured but not delivered to the sites and commissioned, with effect from 1 October 2008; D46
  - ii. R15,444,000 for site works for the remaining 10 sites. D49
- 49) On 26 July 2010 I visited Heartlands Industrial Park near Amanzimtoti in KZN with Evetts. I determined that ten (10) of the twenty (20) water purification plants purchased by the Department of LG & TA were stored in an open yard. The Department of LG & TA paid R2,228,181.82 each for these plants to be manufactured. This amounts to R22,281,818.20, excluding subsequent storage costs for which the Department of LG & TA is still liable. F1
- 50) The purchase price of the plants R2,282,181.82 ex-works Cape Town has been grossly inflated as a result of the market not being tested and the failure to call for tenders or quotations as summarised hereunder:
- i. Grotto concluded that the cost of manufacturing similar plants was between R412,000 and R475,000 in 2006; F3
  - ii. Intaka's price list dated 14 August 2007 reflects the cost price of the Wataka Model 050 is R840,600 inclusive of all costs including: complete unit R524,600; Freight R105,000; Concrete Slab R85,000; Installation: R95,000; and Commissioning and Chemicals R31,000; F4
  - iii. A document on a letter from Loftus Neethling to Dr Savoi dated 31 August 2006 titled: "Prices and terms on building the Wataka 050 complete with automation", reflects the selling price of the Wataka 50 is R531,341.53 excluding VAT. F5
  - iv. An Intaka Tech Purchase Order number 32380 issued to Imvusa dated 2 June 2008 reflects that Intaka ordered 18 x water treatment plants 050 in the amount of R730,000 each excluding VAT. The 10 plants examined by me at Heartlands were manufactured by Imvusa in 2008. F6

References in the margin refer to  
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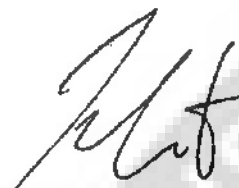
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51) The Intaka profit on the sale of the 20 Wataka's to the Department of LG & TA  
was R30,829,636 before taking into account the commission paid of R1,053,000.

G23/9

  
T S White  
Director: Forensic Services  
29 July 2011



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References in the margin refer to  
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# 14





TSW 14

In the matter between:

THE STATE

And


GASTON SAVOI AND OTHERS

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SUPPLEMENTARY REPORT OF TREVOR SEAN WHITE

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|                              |   |
|------------------------------|---|
| Dated                        | 28 October 2011   |
| Specialist field             | Chartered Accountant and Forensic Auditor   |
| On behalf of the Prosecution | The Director of Public Prosecutions   |
| On the instruction of        | The Department of National Treasury   |
| Subject matter               | Investigation conducted into the purchase of Water Purification Plants and the Awarding of a contract for Oxynitaka Self-Generating Oxygen Plants to Intaka Investments (Pty) Ltd |

  
Trevor White  
PricewaterhouseCoopers  
PO Box 1049  
DURBAN  
4000

Telephone 031 271 2000  
Facsimile 031 202 8220  
Cell phone 082 454 6864

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| The Executive Members' Ethics Act 82 of 1998   | 7        |
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| The Public Finance Management Act No 1 of 1999   | 9        |
| A letter from Dr Savoi to Nkonyeni dated 31 March 2005   | 10       |
| A document with the contact details of Mrs NP Nkonyeni   | 10       |
| An e-mail from Dr Savoi to Dr Hamid Shabbir titled "Various" dated 7 March 2006  | 10       |
| Unsigned Affidavit of Gaston Savoi   | 11       |
| KwaZulu-Natal Provincial Administration Subsistence and Travelling Claim Form for Nkonyeni for the period 24 June 2006 to 5 July 2006  | 12       |
| Letter from Intaka to Ms Gill Bolton titled "Re: Confidential: Briefing Document on Intaka Investments (Pty) Ltd. Issues" dated 6 December 2006  | 13       |
| An electronic Diary entry for Dr Savoi dated 12 April 2007   | 13       |
| E-mail from Ashleigh Spencer of Intaka to Cesar Alexandre and copied to Ignacio Benia, Celso Dos Santos and Stefan Oosthuizen of Intaka titled "Visit of the Head of Department and Minister of KwaZulu-Natal" dated 16 January 2007 | 13       |

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| An electronic Diary entry for Dr Savoi dated 4 May 2007   | 14 |
| Rowmoor Investments 738 (Pty) Ltd   | 14 |
| An electronic Diary entry for Dr Savoi dated 7 June 2007  | 15 |
| An electronic Diary entry for Dr Savoi dated 21 June 2007   | 16 |
| An electronic Diary entry for Dr Savoi dated 10 July 2007   | 16 |
| An electronic Diary entry for Dr Savoi dated 11 July 2007   | 17 |
| An electronic Diary entry for Dr Savoi dated 16 and 17 August 2007  | 18 |
| An electronic Diary entry for Dr Savoi dated 3 September 2007   | 18 |
| Letter from Intaka to Nkonyeni titled "Re: Water Purification Plant (Wataka) - Rietvlei Hospital and Appelsbosh Hospital" dated 18 September 2007   | 19 |
| Minutes of an Internal Meeting held on 22 September 2007  | 19 |
| Letter from Praderi to Nkonyeni titled "Tender No: ZNB 7295/2006 - H: On-Site Manufacture and Delivery of Bulk Medical Oxygen and Medical Air for Clinical Use" dated 3 October 2007                                | 19 |
| An electronic Diary entry for Dr Savoi dated 10 October 2007  | 20 |
| Letter from Praderi to Nkonyeni titled "Tender No: ZNB 7295/2006 - H: On-Site Manufacture and Delivery of Bulk Medical Oxygen and Medical Air for Clinical Use" dated 12 October 2007                               | 20 |
| Steenberg Hotel Tax Invoice and Confirmation document issued to Intaka dated 2 November 2007  | 20 |
| An electronic Diary entry for Dr Savoi dated 8 November 2007  | 21 |
| Letter from De Lange to Dr YL Mbele titled "Award of Tender: On-Site Manufacture and Delivery of Bulk Medical Oxygen for various Institutions. Bid No ZNB 7295/2006-H" dated 15 November 2007                       | 22 |
| Report from Praderi to Dr Savoi titled "Meeting held in Pietermaritzburg on Monday 19 <sup>th</sup> November 2007 regarding the KZN Tender for Self Generating Oxygen and Medical Air Units" dated 20 November 2007 | 23 |
| E-Mail from Dr Savoi to De Lange titled "KZN Contract Oxygen Generators" dated 5 December 2007  | 24 |
| E-Mail from Alicia Marcos to Raoul De Lange titled "Peggy's Email address" dated 11 December 2007   | 24 |
| File note titled "Sms sent by Peggy Nkonyeni to Dr Savoi on 14.12.2007 at 11:50"  | 24 |
| Minutes of a meeting held at Intaka on 21 January 2008  | 25 |
| Minutes of a meeting held at Intaka on 25 January 2008  | 25 |
| E-mail from Dr Savoi to Nkonyeni titled "VIP invitation - Intaka Tech World's view  |    |

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|  |           |
|--|-----------|
| Challenge" dated 25 January 2008   | 25        |
| E-mail from Dr Savoi to Nkonyeni titled "Intaka Tech Worlds View Challenge - Television Production" dated 12 February 2008 | 26        |
| An electronic Diary entry for Dr Savoi dated 18 February 2008  | 26        |
| E-mail from Praderi to Nkonyeni titled "Second Email" Bid Number ZNB 7295/2006-H" dated 23 April 2008                      | 26        |
| E-mail from Praderi to Nkonyeni titled "Bid Number: ZNB 7295/2006-H" dated 9 May 2008                                      | 27        |
| E-mail from Gillian Bolton to De Lange titled "Additional Issue" dated 12 May 2008   | 27        |
| E-mail from De Lange to Gillian Bolton titled "Email to Ms Nkonyeni" dated 1 July 2008                                     | 28        |
| E-mail from Gillian Bolton to De Lange titled "Email to Ms Nkonyeni" dated 1 July 2008                                     | 29        |
| E-mail from De Lange to Sarah Drake titled "Email to Ms Nkonyen" dated 1 July 2008   | 29        |
| Confirmation of e-mail receipt from Nkonyeni to Sarah Drake dated 2 July 2008  | 29        |
| Letter from De Lange to Nkonyeni titled "Text message to Intaka (Pty) Ltd Chairman" dated 2 July 2008                      | 30        |
| An electronic Diary entry for Dr Savoi dated 1 October 2008  | 30        |
| Minutes of a "Intaka Tech Weekly Status Meeting Friday, 3 October 2008, 10:30 am"  | 30        |
| A document titled "Meeting: 20 Jan 09, 2pm G Savoi - Chairman Mr R Savoi - CEO   | 31        |
| Relationship between Nkonyeni and Mkhwanazi  | 31        |
| Meetings held between Dr Savoi and Dr Nyembezi   | 31        |
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**Report of Trevor White**  
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**ABBREVIATIONS AND TERMINOLOGY**

The following are abbreviations and terminology that have been used in this report:

| <b>Abbreviated name/<br/>terminology</b> | <b>Full name and/or description</b>  |
|--|--|
| AFU                                      | Asset and Forfeiture Unit  |
| Beukes                                   | Cheryl Beukes, Mazars  |
| Buthelezi/ CFO                           | ASS Buthelezi, ex- Chief Financial Officer                                     |
| De Lange                                 | Raoul de Lange, former Intaka employee   |
| Department of Health                     | KZN Department of Health   |
| Dr Nyembezi                              | Dr Busisiwe Muriel Nyembezi, ex- Head of Department                            |
| Dr Savoi                                 | Dr Gaston Savoi, Intaka  |
| HOD                                      | Head of Department   |
| IALC Hospital                            | Inkosi Albert Luthuli Central Hospital   |
| Intaka                                   | Intaka Investments (Pty) Ltd, Intaka Tech (Pty) Ltd, Intaka Holdings (Pty) Ltd |
| KZN                                      | KwaZulu-Natal  |
| KZN LG & TA                              | KZN Department of Local Government and Traditional Affairs                     |
| Mazars                                   | Mazars Moores Rowland  |
| MEC                                      | Member of an Executive Council   |
| Mkhwanazi                                | Lindelihle Henry Mkhwanazi, shareholder and director of Rowmoor                |
| Nkonyeni                                 | Ms Peggy Nkonyeni, former MEC KZN Department of Health                         |
| Northern Cape DOH                        | Northern Cape Department of Health   |
| Ntshangase                               | VRM Ntshangase, General Manager, Budget and Supply Chain Management            |
| PFMA                                     | The Public Finance Management Act No 1 of 1999                                 |
| Praderi                                  | Fernando Praderi, Intaka   |
| PwC                                      | PricewaterhouseCoopers   |

PricewaterhouseCoopers

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| <b><i>Abbreviated name/<br/>terminology</i></b> | <b><i>Full name and/or description</i></b> |
|---|--|
| Rennies Travel                                  | Rennies Travel (Pty) Ltd                   |
| Rowmoor   | Rowmoor Investments 738 (Pty) Ltd          |
| SAPS  | South African Police Services              |
| The Department/<br>DOH                          | KwaZulu-Natal Department of Health         |



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**Report of Trevor White  
Chartered Accountant and Forensic Auditor**

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**A. AUTHOR'S DETAILS**

**1.000 Name**

1.001 Trevor Sean White.

**2.000 Personal details**

2.001 I am a male with identity number 6611245014087, 44 years old. I am a director of PricewaterhouseCoopers Advisory Services (Pty) Ltd, 102 Stephen Dlamini Road, Berea, Durban with telephone number (031) 2712000.

**3.000 Experience and qualifications**

3.001 I joined Price Waterhouse in 1989, and was admitted as a director of PricewaterhouseCoopers on 1 July 1998, following the merger of Price Waterhouse and Coopers and Lybrand. I am presently the director in charge of the Risk Advisory Services department, which incorporates the Forensic Investigations Department of PricewaterhouseCoopers in KwaZulu-Natal.

3.002 I have conducted numerous fraud investigations for both public and private sector clients and have given evidence in the South African High Court and the Regional Court and in the Lesotho High Court. I have also presented evidence to a Commission of Enquiry, the Commission for Conciliation, Mediation and Arbitration ("CCMA") and at various disciplinary hearings. I am trained in auditing techniques and hold a Bachelor of Commerce degree and Post Graduate Diploma in Accountancy from the former University of Natal Durban. I was also admitted as a member of the South African Institute of Chartered Accountants in 1992. I am a Certified Fraud Examiner, being admitted as a full member of the Association of the Certified Fraud Examiners, a Texas based organisation, in 1998. I have been involved in a number of business valuations and performance audits. My specialist field is Forensic Auditing and as such I have extensive experience in analysing,

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reviewing and verifying financial information and accounting records. I have also chaired three investigative Commissions of Enquiry into Fraud and Corruption in Swaziland.

**B. MANDATE AND ISSUES TO BE INVESTIGATED**

**4.000 Appointment**

4.001 The terms of our appointment are detailed in our agreement with National Treasury which was signed by Mr Freeman Nomvalo, on 15 October 2010. The said Agreement relates to additional work required by the SAPS and the Director of Public Prosecutions (DPP) as a result of the investigations we conducted into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN Department of Health (Department of Health), KZN Department of Local Government and Traditional Affairs (KZN LG & TA) and the Northern Cape Department of Health (the Northern Cape DOH). This report, which has been prepared at the request of the SAPS and DPP, covers additional information relating to Ms Peggy Nkonyeni (Nkonyeni), the former Member of the Executive Council (MEC) of the KZN Department of Health and must not be read in isolation but must be read in conjunction with my two reports dated 24 May 2010. These reports deal with the investigation conducted into the procurement of Oxyntaka Self-Generating Oxygen Plants and Wataka Water Purification Plants by the KZN Department of Health.

4.002 The following represents the General Procedures performed:

- i. Accompanied the SAPS investigating officer and reviewed the 356 files of documents seized from Intaka.
- ii. Reviewed the electronic data copied by the SAPS from computers seized from Intaka.
- iii. Examined bank accounts subpoenaed by the SAPS.

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- iv. Reviewed affidavits and warning statements taken by the SAPS.
- v. Examined additional documents obtained by the SAPS from third parties.
- vi. Examined additional documents obtained from the Department of Health and third parties.
- vii. Interviewed current and former officials from the Department of Health and third parties.

- 4.003 I am not required to and did not undertake an audit in terms of the International Standards on Auditing. The scope of my work was limited to a review of the documentary evidence made available to me and enquiries undertaken to address issues identified in the execution of the investigation undertaken. I have not verified the authenticity or validity of the records and documents provided to me, unless otherwise stated.
- 4.004 This report has been prepared solely for use in the criminal matters registered with SAPS by the Department. It may also with the prior written consent of the Director of Public Prosecutions be used in any civil or disciplinary proceedings that the Department may wish to initiate. It may not be suitable for any other purpose and it should not be used, reproduced or circulated for any other purpose without my prior written consent. It should be a condition of such consent, if given, that PricewaterhouseCoopers and myself accept no responsibility to that third party and that such third party will hold PricewaterhouseCoopers and myself harmless in respect of any consequences of such disclosure. Whether or not I have given consent, PricewaterhouseCoopers and myself will not accept liability or responsibility to any other party who may gain access to this report.
- 4.005 I have included information relevant to the investigation and related circumstances but cannot conclude on the completeness of such information as the possibility exists that not all-relevant information and documentation was made available to me. Any documentation or information brought to my attention subsequent to the date of this

**Report of Trevor White**  
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report, which will affect the findings detailed herein, will require my findings to be adjusted and qualified accordingly.

- 4.006 This report contains hearsay evidence based on interviews conducted with individuals and affidavits/warning statements taken by the SAPS. I deem the aforementioned evidence to be appropriate to sketch the full picture of the allegations raised.

**5.000 Background**

- 5.001 This report focuses on the relationship between Nkonyeni, Dr Gaston Savoi (Dr Savoi), Intaka, Lindelihle Mkhwanazi (Mkhwanazi) and Rowmoor Investments 738 (Pty) Ltd (Rowmoor). It relates to the investigation conducted into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN Department of Health and covers additional information relating to Nkonyeni's relationship with Savoi, Intaka and Mkhwanazi. I have also included information relating to meetings that were allegedly held between Dr BM Nyembezi (Dr Nyembezi) and Dr Savoi.

**C. BASIS OF INVESTIGATION**

**.000 Execution of fieldwork and gathering of information**

- 6.001 Members of my staff have assisted me in the execution of fieldwork and gathering of information necessary to compile this report, however, where an opinion is expressed in this report it is my own opinion.

**7.000 Sources documents**

- 7.001 The information dealt with in this report was obtained from the sources listed below:
- i. Documents seized by the SAPS from Intaka;
  - ii. Electronic records seized by the SAPS from Intaka;

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**Report of Trevor White  
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- iii. Documents obtained by the SAPS from third parties;
- iv. Documents obtained from the Department of Health; and
- v. Documents obtained by PwC representatives from third parties.

**D. DETAILED PROCEDURES AND FINDINGS**

8.000 I determined when examining documents and electronic records seized by the SAPS from Intaka that a number of documents, messages and e-mails related to communication between Nkonyeni and Intaka and/or Dr Savoi. The said documentation is self-explanatory, however I will briefly refer to the documents in further detail hereunder together with my key findings.

8.001 Unless stated otherwise all the documents referred to below were extracted from the electronic records seized by SAPS from Intaka.

8.002 I deem it necessary to refer to relevant legislation regarding the duties and responsibilities of the MEC. I shall only attach relevant sections of the legislation and policies where applicable as these documents are bulky and it is not necessary to attach the documents in their entirety.

**The Executive Members' Ethics Act 82 of 1998**

- |       |   |      |
|-------|---|------|
| 8.003 | The Executive Members' Ethics Act 82 of 1998 was assented to on 20 October 1998<br><i>"to provide for a code of ethics governing the conduct of members of the cabinet, Deputy Ministers and members of provincial Executive Councils: and to provide for matters connected therewith".</i> | D1   |
| 8.004 | MEC means <i>"a member of an Executive Council, and includes the Premier"</i> .   | D1/1 |
| 8.005 | Section 2 (2) of the Executive Members' Ethics Act deals with the code of ethics and reads as follows:  | D1/1 |

*The code of ethics must -*

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- (a) include provisions requiring Cabinet members, Deputy Ministers and MECs-
- (i) at all times to act in good faith and in the best interest of good governance; and
  - (ii) to meet all the obligations imposed on them by law; and

(b) include provisions prohibiting Cabinet members, Deputy Ministers and MECs from-

- (i) undertaking any other paid work;
- (ii) acting in a way that is inconsistent with their office;
- (iii) exposing themselves to any situation involving the risk of a conflict between their official responsibilities and their private interests;
- (iv) using their position or any information entrusted to them, to enrich themselves or improperly benefit any other person; and
- (v) acting in a way that may compromise the credibility or integrity of their office or of the government.

**The Public Service Act, 1994**

- |       |  |      |
|-------|--|------|
| 8.006 | The Public Service Act of 1994 was assented to on 1 June 1994 "to provide for the organisation and administration of the public service of the Republic, the regulation of the conditions of employment, terms of office, discipline, retirement and discharge of members of the public service, and matters connected therewith". | D2   |
| 8.007 | The following definitions in terms of Section (1) of the Public Service Act are relevant:  |      |
|       | 1) "Executing authority, in relation to (f) a provincial department within an Executive Council Portfolio", means the member of such Executive Council responsible for such portfolio.   | D2/2 |
|       | 2) "Head of department" means the incumbent of a post mentioned in the second column of Schedule 1 or 2, and includes any officer acting in such post.   | D2/2 |
| 8.008 | A Head of Department is, in terms of Section 7 (3) (b) of the Public Service Act, responsible for "the efficient management and administration of his or her department, including the effective utilisation and training of staff, the maintenance of   | D2/4 |

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*discipline, the promotion of sound labour relations and the proper use and care of State property, and he or she shall perform the functions that may be prescribed".*

**The Public Finance Management Act No 1 of 1999**

- |       |  |                      |
|-------|--|----------------------|
| 8.009 | The Public Finance Management Act No 1 of 1999 (the PFMA) was assented to on 2 March 1999 <i>"to regulate financial management in the national government and provincial governments; to ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively; to provide for the responsibilities of persons entrusted with financial management in those governments; and to provide for matters connected therewith"</i> . | D3                   |
| 8.010 | The following definitions are relevant:<br>1) <i>"Accounting officer"</i> means a person mentioned in section 36.<br>2) <i>"Department"</i> means a national or provincial department or a national or provincial government component.<br>3) <i>"Executive authority"</i> in relation to a provincial department, means the member of the Executive Council of a province who is accountable to the provincial legislature for that department.                                   | D3/2<br>D3/2<br>D3/3 |
| 8.011 | Subsection (1) of Section 36 of the PFMA provides for <i>"accounting officers"</i> : <i>"every department and every constitutional institution must have an accounting officer"</i> . Subsection (2) (a) of Section 36 further adds that: <i>"subject to subsection 3 the head of a department must be the accounting officer for the department"</i> .  | D3/4                 |
| 8.012 | Section 38 of the PFMA provides for <i>"general responsibilities of accounting officers"</i> -<br>(1) <i>"The accounting officer for a department"</i> -<br>(a) <i>"must ensure that the department has and maintains: (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective"</i> .   | D3/5                 |
| 8.013 | Hence, Dr Nyembezi as the then HOD and the Accounting Officer of the Department of Health had to ensure the efficient management and administration of the   |                      |

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Department, including "an appropriate procurement and provisioning system". The involvement of Nkonyeni with Intaka was unusual as will be discussed in further detail hereunder and it will become evident that Nkonyeni colluded with Intaka and Dr Savoi going forward to the detriment of the Department for which she was the MEC.

**1) A letter from Dr Savoi to Nkonyeni dated 31 March 2005**

- 8.014 This letter followed an introductory meeting between Dr Savoi, Nkonyeni, Sipho Gcabashe and Sipho Shabalala on 30 March 2005. Dr Savoi provided a brief background of himself and his business to Nkonyeni and gave a short introduction of the self-production Oxyntaka plant and the "Wataka" water purification plant. A1/1-2

**2) A document with the contact details of Mrs N.P. Nkonyeni**

- 8.015 A document titled "Worlds View VIP Invite list" contains the following information: A2

|       |                                   |
|-------|-----------------------------------|
| Title | Minister of Health KZN            |
| Name  | Mrs N.P. Nkonyeni                 |
| Tel   | 033 395 2016                      |
| Fax   | 033 395 2258                      |
| Email | Neliswa.nkonyeni@kznhealth.gov.za |

**3) An e-mail from Dr Savoi to Dr Hamid Shabbir titled "Various" dated 7 March 2006**

- 8.016 This e-mail from Dr Savoi to Dr Hamid Shabbir (CEO of Kimberley Hospital Complex in the Northern Cape) and copied to Fernando Praderi (Praderi) and Mr Adriaan Laubscher of Intaka is titled "Various" dated 7 March 2006. The e-mail starts with "Dear amigos" and Dr Savoi provided a review and update of different issues. Paragraph 4 under the heading "KZN" reads as follows: "There is a huge potential. We have 1 Oxyntaka performing at Murchison hospital since 9 months ago. Prof. Green-Thompson, who came invited by us with the delegation that visited Brazil, South America, where they could see our equipments performing at various hospitals" A3/1-2

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*with success, was promoted to the National Health Department. He didn't succeed in going forward due to differences between him and the MEC at that stage. The current MEC, Peggy Nkonyeni, visited Somerset together with Prof. Green-Thompson and she is very supportive to the Oxyntaka process. I understand that a new HOD was appointed for the Kingdom and understand that it's the right moment to move forward there, considering that there are problems with approx 70 hospitals. Please let me know your thoughts".*

**4) Unsigned Affidavit of Gaston Savoi**

8.017 I previously in my report dated 24 May 2010 referred to an affidavit of Dr Savoi handed to me by the SAPS. The said affidavit purports to have been signed by Dr Savoi on 14 July 2008. I received a further affidavit of Dr Savoi handed to me by the SAPS that purports to have been signed by him on 21 August 2008. The 2 affidavits are both silent on information relating to Nkonyeni's relationship or dealings with Dr Savoi. I located a further unsigned affidavit of Dr Savoi from the electronic records seized by the SAPS from Intaka. Page 7 of the affidavit contains the following information relating to Nkonyeni under the heading "Rietvlei and Appelsbosch" which was excluded from the two affidavits I referred to herein above:

A3A1

A3A/7

*"Through Mr Sipho Shabalala, the head of the KZN Treasury, I met the MEC for the Department of Health, Ms Peggy Nkonyeni and, as referred to herein above, Professor Green-Thompson, the head of the department. Professor Green-Thompson was later replaced by Dr Busi Nymbezi (sic) as the head of the department. Ms Nkonyeni and Dr Busi Nymbezi (sic) visited Brazil on, what I understand, was a departmental fact finding trip and was, like Professor Green-Thompson, extremely interested in our medical and oxygen plants as well as the water purification system. They also saw a portable ultrasound scanner that the Brazillian authorities use to diagnose breast, prostate and cervical cancer during visits to outlying areas.*

*Both Ms Nkonyeni and Busi Nymbezi (sic) discussed with me the problems they had with water at some of the hospitals in KwaZulu Natal and we discussed the*

*M*



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*possibility of Intaka supplying the Department of Health with water purification plants as well as medical air and oxygen plants for the hospitals".*

- 8.018 The trip by Nkonyeni to Brazil is also referred to in an e-mail from de Lange to Bolton on 1 July 2008. **A33/1**

**5) KwaZulu-Natal Provincial Administration Subsistence and Travelling Claim Form for Nkonyeni for the period 24 June 2006 to 5 July 2006**

- 8.019 I was provided by the Department of Health with a KwaZulu-Natal Provincial Administration Subsistence and Travelling Claim form for Nkonyeni completed for an "Overseas trip" to Brazil during the period 24 June 2006 to 5 July 2006. **A3B/1-5**

- 8.020 The SAPS provided me with copies of printouts from the Travellers Record System provided by the Movement Control Centre. These documents reflect the following in respect of travel from South Africa and return by Nkonyeni and Dr Nyembezi: **A3D/1-4**

| Date       | Name     | Direction | Flight # |
|------------|----------|-----------|----------|
| 24/06/2006 | Nkonyeni | Departure | SA205    |
| 04/07/2006 | Nkonyeni | Arrival   | SA206    |
| 24/06/2006 | Nyembezi | Departure | SA205    |
| 04/07/2006 | Nkonyeni | Arrival   | SA206    |

- 8.021 The diary retained by the office of Dr Nyembezi for 2006, contains the handwritten note "Brazil" on the pages starting from 24 June 2006 to 4 July 2006. This will indicate that Dr Nyembezi had accompanied Nkonyeni on the trip to Brazil and it supports the information as contained in the unsigned affidavit of Dr Savoï. **A3C/1-11**  
**A3A/7**

- 8.022 Rennies Travel (Pty) Ltd (**Rennies Travel**), the travel agent who was responsible for travel and accommodation bookings for the Department of Health during 2006, could not locate any records that indicate that they had made travel bookings for either Nkonyeni and/or Dr Nyembezi to travel to Brazil in 2006 and confirmed that they have not made any travel bookings for either Nkonyeni or Dr Nyembezi during the

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period 24 June 2006 to 5 July 2006 (the period when Nkonyeni and Dr Nyembezi travelled to Brazil) and hence an indication that the Department of Health had not paid for any of their flights and accommodation during their visit to Brazil.

**6) Letter from Intaka to Ms Gill Bolton titled "Re: Confidential: Briefing Document on Intaka Investments (Pty) Ltd. Issues" dated 6 December 2006**

- 8.023 The content of this letter is self-explanatory and it appears to be a reply to questions arising from information provided. Paragraph 1.7 under the heading "Intaka activities in KZN" reads as follows: *"The name of Peggy Nkonyeni is correct"*. A4/1-5  
A4/3

**7) E-mail from Ashleigh Spencer of Intaka to Cesar Alexandre and copied to Ignacio Benia, Celso Dos Santos and Stefan Oosthuizen of Intaka titled "Visit of the Head of Department and Minister of KwaZulu-Natal" dated 16 January 2007**

- 8.024 Ashleigh Spencer of Intaka sent the e-mail to Cesar Alexandre and copied various Intaka staff on the e-mail, informing them as follows: *"Please note that on Thursday 18<sup>th</sup> January 2007 Dr Savoi will be receiving Dr Busi Nyembezi (HOD of KwaZulu-Natal) and the Minister of Health for KwaZulu-Natal at our premises. During this visit they will more than likely want a tour of our facilities. Please could you ensure that the premises are neat and tidy (as they should always be) and ready for the visitors to inspect. Please also ensure that the staff are dressed in the appropriate uniforms and are neat and tidy"*. A4A

**8) An electronic Diary entry for Dr Savoi dated 12 April 2007**

- 8.025 An electronic Diary entry for Dr Savoi dated 12 April was on a document electronically filed as "Agenda 2 – 22 April.xls and reflects the date modified as 5 April 2007. The diary contains the following entries: A5

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**Dr Savoi**

|                                    |                          |
|------------------------------------|--------------------------|
| Thursday, 12 <sup>th</sup> . April | MEC Peggy in CT – A Conf |
| Friday, 13 <sup>th</sup> . April   | MEC Peggy in CT – A Conf |

**9) An electronic Diary entry for Dr Savoi dated 4 May 2007**

- 8.026 An electronic Diary entry for Dr Savoi dated 4 May was on a document electronically filed as "Agenda 30 abril – 13 mayo1.xls and reflects the date modified as 4 May 2007. The diary contains the following entry: **A6/1**

**Dr Savoi**

|                               |  |
|-------------------------------|--|
| Friday, 4 <sup>th</sup> . May | Peggy and Linda in CT<br>09:00 – Peggy Nkonyeni, Linda |
|-------------------------------|--|

- 8.027 An electronic meeting entry from the Mail and Back Up Server located in the Intaka electronic records reflects that Tracey Ward recorded a meeting with "Linda Mkwhanazi and Peggy (MEC Health KZN)" on 4 May 2007 from 09:00 to 10:00. This entry was created on 3 May 2007. **A6/2**

- 8.028 Rennie's Travel Tax Invoice number 302420 dated 3 May 2007 reflects that ticket number 5997445584 was issued to Nkonyeni to travel from Durban to Cape Town and return on 4 May 2006 and hence confirms that Nkonyeni was in Cape Town as recorded in Dr Savoi's electronic Diary dated 4 May. **A6/3**

**10) Rowmoor Investments 738 (Pty) Ltd**

- 8.029 I dealt with Rowmoor Investments 738 (Pty) Ltd (Rowmoor) and with the two (2) x payments by Intaka to Rowmoor for "commission that was owed to Rowmoor for the sale of two water purification plants" in my report dated 24 May 2010. The SAPS have subsequently subpoenaed the following from Mazars Moores Rowland (Mazars), the auditors of the Intaka Group of Companies, for all entities in the Intaka Group:

- i. Audit working papers;

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- 
- ii. Correspondence between Mazars and Intaka;
  - iii. Minutes of all meetings with Intaka directors or employees; and
  - iv. Correspondence with the Independent Regulatory Board for Auditors (IRBA).
- 8.030 Documents relevant to the registration of Rowmoor were included in the documents provided and have been referred to below.
- 8.031 Email from Cheryl Beukes (Beukes) of Mazars to Lindelihle Mkhwanazi (lindelihle@telkomsa.net) titled "Shelf Company" dated 7 May 2007. Beukes referred to "our meeting on Friday" in the e-mail (which was 4 May 2007) and attached the documentation for the shelf company that required his signature. Beukes concluded as follows: "We will lodge the documentation with the Registrar of Companies and then send you copies of the company documents for your records". B1
- 8.032 Letter from Mazars to Mkhwanazi for the acquisition of Rowmoor Investments 738 (Pty) Ltd dated 7 May 2007 with the following documents attached thereto: B2/1
- i. Minutes of a meeting of the shareholder; B2/2
  - ii. Form CM27; B2/3
  - iii. Form CM 29; B2/4-7
  - iv. Share Certificate; B2/8
  - v. Letter accepting appointment as public officer; and B2/9
  - vi. Mandate. B2/10
- 8.033 Rowmoor Investments 738 (Pty) Ltd was registered on 26 March 2007 and Mkhwanazi was appointed as Director on 4 May 2007, the same day when he had a meeting with Mazars (who are also the auditors of the Intaka Group of Companies) regarding the acquisition of Rowmoor which was a shelf company at the time.
- 11) An electronic Diary entry for Dr Savoi dated 7 June 2007**
- 8.034 An electronic Diary entry for Dr Savoi dated 7 June was on a document electronically filed as "Agenda 4-17 junio1.xls" and reflects the date modified as 8 June 2007. The diary contains the following entry: A7/1

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**Dr Savoi**

|                                  |                           |
|----------------------------------|---------------------------|
| Thursday, 7 <sup>th</sup> , June | 09:00 – Linda + MEC Peggy |
|----------------------------------|---------------------------|

- 8.035 Rennies Travel Tax Invoice number 304545 dated 8 June 2007 reflects that ticket number 5997722630 was issued to Nkonyeni to travel from Durban to Cape Town on 6 June 2007 and return to Durban. Rennies Travel Tax Invoice number 305615 dated 19 June 2007 reflects that accommodation for Nkonyeni was booked on 6 June 2007 at the Southern Sun Hotel, Waterfront, Cape Town for two (2) x nights and hence confirms that Nkonyeni was in Cape Town on 7 June 2007 as recorded in Dr Savoi's electronic Diary dated 7 June 2007. A7/2
- A7/3

**12) An electronic Diary entry for Dr Savoi dated 21 June 2007**

- 8.036 An electronic Diary entry for Dr Savoi dated 21 June was on a document electronically filed as "Agenda 11 – 24 Junio1.xls" and reflects the date modified as 15 June 2007. The diary contains the following entry: A8

**Dr Savoi**

|                                   |  |
|-----------------------------------|--|
| Thursday, 21 <sup>st</sup> , June | 07:00 – CT – Durban<br>09:00 - Collect Linda and MEC Peggy<br>09:30 – Durban – Kimberley<br>Meeting with Dr. Shabbir, Linda and Peggy<br>Kimberly-Durban-Cape Town |
|-----------------------------------|--|

**13) An electronic meeting entry dated 10 July 2007**

- 8.037 An electronic meeting entry from the Mail and Back Up Server located in the Intaka electronic records reflects that Tracey Ward recorded a meeting with "Linda Mkwanaazi and MEC Peggy" on 10 July 2007 from 20:00 to 22:00. This entry was created on 9 July 2007. A9



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**14) Electronic Diary entries for Dr Savoi dated 10 and 11 July 2007**

- 8.038 Electronic Diary entries for Dr Savoi dated 10 and 11 July were on a document **A10/1**  
electronically filed as "Agenda 9-22 julio1.xls" and reflects the date modified as 13  
July 2007. The diary contains the following entries:

**Dr Savoi**

|                                  |  |
|----------------------------------|--|
| Tuesday, 10 <sup>th</sup> July   | Linda and MEC Peggy in CT<br>20:00 – Linda and MEC Peggy @ Steenberg Hotel |
| Wednesday, 11 <sup>th</sup> July | 08:30 – Linda, MEC Peggy   |

- 8.039 Rennies Travel Tax Invoice number 306830 dated 26 July 2007 reflects that ticket **A10/3**  
number 4976908614 was issued to Nkonyeni to travel from Durban to Cape Town on  
10 July 2007 and return to Durban. Rennies Travel Tax Invoice number 307562  
dated 1 August 2007 reflects that accommodation for Nkonyeni was booked on 10 **A10/4**  
July 2007 at the Southern Sun Hotel, Waterfront, Cape Town for one (1) x night and  
hence confirms that Nkonyeni was in Cape Town from 10 to 11 July 2007 as  
recorded in Dr Savoi's electronic Diary dated 10 and 11 July 2007 respectively.

- 8.040 In the unsigned affidavit of Dr Savoi he dealt with whether Nkonyeni and Dr **A3A/13**  
Nyembezi ever spent time at the Steenberg Hotel and stated the following: "As I  
recall they both stayed at the Steenberg Hotel on more than one occasion  
during discussions with Intaka on the possibility of Intaka supplying water  
purification and medical air and oxygen plants to KZN Department of Health.  
Nothing however materialized as a result of these discussions. The water  
purification plants sold to the KZN Department of Health for Rietvlei and  
Appelsbosch were as a result of Mr Mkhwanazi's efforts".

- 8.041 Nkonyeni and Mkhwanazi attended regular meetings together with Intaka and were **A16/A18**  
at the Steenberg Hotel on more than one occasion as will also be discussed in  
further detail hereunder.

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**15) An electronic Diary entry for Dr Savoi dated 16 and 17 August 2007**

- 8.042 An electronic Diary entry for Dr Savoi dated 16<sup>th</sup> and 17<sup>th</sup> August was on a document electronically filed as "Agenda 6 – 19 agostoi.xls" and reflects the date modified as 8 August 2007. The diary contains the following entries: **A11**

**Dr Savoi**

|                                    |                                |
|------------------------------------|--------------------------------|
| Thursday, 16 <sup>th</sup> .August | Peggy Y Linda in CT to be Conf |
| Friday, 17 <sup>th</sup> .August   | Peggy Y Linda in CT to be Conf |

**16) An electronic Diary entry for Dr Savoi dated 3 September 2007**

- 8.043 An electronic Diary entry for Dr Savoi dated 3 September was on a document electronically filed as "Agenda 3 – 16 Setiembre1.xls" and reflects the date when the document was last modified as 7 September 2007. The diary contains the following entry: **A12/1**

**Dr Savoi**

|                                   |                               |
|-----------------------------------|-------------------------------|
| Monday, 3 <sup>rd</sup> September | 9:00 – MEC Peggy, Linda in CT |
|-----------------------------------|-------------------------------|

- 8.044 An electronic meeting entry from the Mail and Back Up Server located in the Intaka electronic records reflects that Tracey Ward recorded a meeting with "Linda Mkwanzazi, MEC Peggy" on 3 September 2007 from 08:00 to 10:00. This entry was created on 31 August 2007. **A12/2**
- 8.045 Rennie's Travel Tax Invoice number 309254 dated 31 August 2007 reflects that ticket number 5628809753 was issued to Nkonyeni to travel from Durban to Cape Town and return on 3 September 2007 and hence confirms that Nkonyeni was in Cape Town on 3 September 2007 as recorded in Dr Savoi's electronic Diary dated 3 September 2007. **A12/3**

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**17) Letter from Intaka to Nkonyeni titled "Re: Water Purification Plant (Wataka)  
 – Rietvlei Hospital and Appelsbosch Hospital" dated 18 September 2007**

8.046 This letter refers to a certificate of analysis of raw water prior to water treatment and a certificate of analysis of the water after treatment by the water purification plant at Rietvlei and Appelsbosch Hospitals respectively. This letter is addressed to Ms Peggy Nkonyeni, MEC of Health and is from Fernando Praderi. A13

**18) Minutes of an Internal Intaka Meeting held on 22 September 2007**

8.047 The minutes are of an internal meeting held on 22 September 2007 at 16:00 and reflect that Dr Savoi, Mr Fernando Praderi and Ashleigh Spencer attended the said meeting. The minutes reflect in paragraph 3 that the patent certificates for the Oxyntaka and the Wataka applications were received on 22 January 2007. Dr Savoi requested that official letters be sent out concerning the acceptance to various officials including to "Mrs NP Nkonyeni, Minister of Health (MEC), KZN". A14/1-2

**19) Letter from Praderi to Nkonyeni titled "Tender No: ZNB 7295/2006 – H: On-Site Manufacture and Delivery of Bulk Medical Oxygen and Medical Air For Clinical Use" dated 3 October 2007**

8.048 In this letter Praderi refers to the oxygen consumption levels that the tender document specified and pointed out that they determined the oxygen consumption during compulsory site visits and that substantial discrepancies existed at some hospitals. He requested Nkonyeni to advise by return of fax of the consumption figures they should apply when preparing for installation because they *"do not wish to end up under sizing a unit only to discover upon installation and commissioning that the relevant unit is not suitable to meet the consumption requirements of a particular hospital"*. A15/1-2

8.049 It is unusual for a letter of this nature to be addressed to the MEC and not to the HOD as the Accounting Officer of the Department. A15/2

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**20) An electronic Diary entry for Dr Savoi dated 10 October 2007**

- 8.050 An electronic Diary entry for Dr Savoi dated 10 October was on a document A16/1  
electronically filed as "Agenda 8 – 21 Octobre1.xls and reflects the date when the  
document was last modified as 12 October 2007. The diary contains the following  
entry:

**Dr Savoi**

|                                     |                                       |
|-------------------------------------|---------------------------------------|
| Wednesday, 10 <sup>th</sup> October | 20:00 – Linda Y MEC Peggy @ Steenberg |
|-------------------------------------|---------------------------------------|

- .051 Rennies Travel Tax Invoice number 312529 dated 17 October 2007 reflects that A16/2  
ticket number 5629064203 was issued to Nkonyeni to travel from Durban to Cape  
Town and return on 10 October 2007 and hence confirms that Nkonyeni was in Cape  
Town on 10 October 2007 as recorded in Dr Savoi's electronic Diary dated  
10 October 2007.

**21) Letter from Praderi to Nkonyeni titled "Tender No: ZNB 7295/2006 – H: On-  
Site Manufacture and Delivery of Bulk Medical Oxygen and Medical Air For  
Clinical Use" dated 12 October 2007**

- 8.052 This letter is self-explanatory and refers to the consumption discrepancies pertaining A17  
to some of the hospitals specified in the tender document. Praderi referred  
specifically the consumption discrepancies pertaining to seven (7) x hospitals to  
which they had undertaken to donate Oxyntaka units and stated in paragraph 5 that  
*"whilst we still undertake to meet our promise to donate, we should make it clear that*  
*Intaka Tech (Pty) Ltd will assume no liability to the Department of Health in the event* A17/2  
*that the units are unable to meet the consumption demands of the Donee Hospitals*  
*and should the demand, in fact, be higher than that which can be accommodated by*  
*these units".*

**22) Steenberg Hotel Tax Invoice and Confirmation document issued to Intaka  
dated 2 November 2007**

- 8.053 A Steenberg Hotel Tax Invoice and Confirmation document issued to Intaka Tech A18/1

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(Pty) Ltd dated 2 November 2007 reflects the following information:

- i. *"Name of Guest: Mr L Mkhwanazi and Ms O Nkonyeni;*
- ii. *Date of arrival: 5 November 2007;*
- iii. *Date of Departure: 6 November 2007;*
- iv. *Room Type: Standard Luxury Twin; and*
- v. *Number of Rooms 2*
- vi. *Sub Total – Accommodation: R4 320".*

- 8.054 An electronic Diary entry for Dr Savoi dated 6 November was on a document A18/2  
electronically filed as "Agenda 5 – 18 novembre1.xls and reflects the date when the  
document was last modified as 7 November 2007. The diary contains the following  
entry:

| <u><b>Dr Savoi</b></u>             |                                       |
|------------------------------------|---------------------------------------|
| Thursday, 6 <sup>th</sup> November | Dr Shabbir, Linda, MEC Peggy<br>in CT |

- 8.055 Rennies Travel Tax Invoice number 314071 dated 6 November 2007 reflects that A18/3  
ticket number 5629373107 was issued to Nkonyeni to travel from Durban to Cape  
Town and return on 6 November 2007 and hence confirms that Nkonyeni was in  
Cape Town on 6 November 2007 and stayed with Mkhwanazi at the Steenberg Hotel  
on 5 November 2007.

23) An electronic Diary entry for Dr Savoi dated 8 November 2007

- 8.056 An electronic Diary entry for Dr Savoi dated 8 November was on a document A19/1  
electronically filed as "Agenda 5 – 18 novembre1.xls and reflects the date when the  
document was last modified as 7 November 2007. The diary contains the following  
entry:

| <u><b>Dr Savoi</b></u>             |                                 |
|------------------------------------|---------------------------------|
| Thursday, 8 <sup>th</sup> November | MEC Peggy in CT<br>9:30 - Peggy |

PricewaterhouseCoopers

References in the margin refer to  
appendix numbers



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8.057 Rennie's Travel Tax Invoice number 314217 dated 8 November 2007 reflects that ticket number 5629373142 was issued to Nkonyeni to travel from Durban to Cape Town and return on 8 November 2007 and hence confirms that Nkonyeni was in Cape Town on 8 November 2007 as recorded in Dr Savoi's electronic Diary dated 8 November 2007. A19/2

**24) Letter from De Lange to Dr YL Mbele titled "Award of Tender: On-Site Manufacture and Delivery of Bulk Medical Oxygen for various Institutions. Bid No. ZNB 7295/2006-H" dated 15 November 2007**

8.058 This letter from De Lange to Dr Mbele dated 15 November 2007 was located amongst the documents seized by the SAPS from Intaka. This letter to Dr Mbele was copied by e-mail to Nkonyeni. The content thereof is self-explanatory and refers to the delays experienced and the need to finalise the Agreement. Dr Savoi sent an e-mail to De Lange on the same day at 10:17. It is titled: "KZN Tender Contract" and includes the following: A20/1-2

*"After long conference with MEC:*

- *She is very disappointed with HOD and Victor attitude, not proceeding as per her instructions.*
- *All the situation was created because Victor received questionnaire from DA and only today disclosed to MEC.*
- *MEC will reply to DA*
- *Victor must send to you legal documents, as you requested, today; if you don't receive them claim them to him by e-mail with a copy to MEC.*
- *I informed the MEC that as per my instructions once you receive these documents you will e-mail him cc MEC and HOD informing that you and the Commercial Director will be there to make a short presentation of the company and product to HOD. She will make sure that you return with the document signed.*
- *I explained to her the reason why I will not be there and she fully agreed".*

A20/3

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8.059 The above would indicate that Savoi had spoken directly to the MEC, Nkonyeni and that she had instructed the HOD and Ntshangase to proceed and they had not. Further, she would ensure that the Intaka representatives did not return without the Agreement being signed. I cannot determine the reason why Savoi would not be at the meeting (and the signing of the Agreement).

8.060 Savoi sent another e-mail to De Lange on the same day at 10:23 stating: *"the letter sent and received by the HOD was the bomb that made all happen. It was the right movement"*. A20/4

8.061 An email was sent by De Lange on 15 November at 18:28 to Ntshangase and various others at KZN Health requesting confirmation of the meeting on 19 November 2007. On the top of this email the following has been written "I re-sent this 16 November @ 13h12, incl Ms P Nkonyeni". A20/5

**25) Report from Praderi to Dr Savoi titled "Meeting held in Pietermaritzburg on Monday 19<sup>th</sup> November 2007 regarding the KZN Tender for Self Generating Oxygen and Medical Air Units" dated 20 November 2007**

8.062 The report from Praderi to Dr Savoi dated 20 November 2007 deals with a meeting that was held in Pietermaritzburg on 19 November 2007 regarding the KZN Tender for Self Generating Oxygen and Medical Air Units and reflects that the meeting was attended by Nkonyeni and the following KZN Department of Health employees: A21/1-2

- Dr Y L Mbele - Acting HOD, Department of Health KZN;
- Ms Kantha Padayachee - Legal Advisor;
- Mr V R M Ntshangase - General Manager, Supply Chain Management;
- Mr Leon Mbangwa - Media and Communication Representative.

Paragraph 5 of the report reads as follows: *"MEC, Ms Peggy Nkonyeni thanked Mr de Lange and I for attending the meeting in order to clarify the various matters of the tender"*.

8.063 Praderi explained the process of the situation to the MEC from the start which is A21/2

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discussed in further detail in his report to Dr Savoi and is self-explanatory. He further explained the *"savings which the Department of Health will have experienced during the first five years of the contract and how the savings would increase after the 5 year period due to ownership of the equipment"*. He concluded the report as follows: *"Before the meeting finished, I mentioned that it is imperative the contract be signed by Wednesday 21 November 2007. The Legal Advisor, Mr Victor Ntshangase, Mr de Lange and I decided to meet in order to finalise the contract"*.

**26) E-mail from Dr Savoi to De Lange titled "KZN Contract Oxygen Generators" dated 5 December 2007**

- 8.064 The e-mail from Dr Savoi to De Lange dated 5 December 2007 was located in the documents seized by the SAPS from Intaka. He advised De Lange as follows: *"According to yesterday telephone conversation with the MEC of Health KZN I reiterate the need for both parties to have the contract signed this week"*. A22

**27) E-mail from Alicia Marcos to Raoul De Lange titled "Peggy's Email address" dated 11 December 2007**

- 8.065 An e-mail from Alicia Marcos to De Lange of Intaka dated 11 December 2007 contains the e-mail address of Nkonyeni as "nelisiwa.nkonyeni@kznhealth.gov.za". A23

**28) File note titled "Sms sent by Peggy Nkonyeni to Dr Savoi on 14.12.2007 at 11:50"**

- 8.066 This document is on an Intaka letterhead is titled "FILE NOTE Sms sent by Peggy Nkonyeni to Dr Savoi on 14.12.2007 at 11:50". The file note reads as follows: *"Doc! The contract was signed yesterday although your guys were not happy with maintenance and few other things buy (sic) they were cruched (sic) because of what was reflected in the bid document. Next time we'll have to be more careful and perhaps u need to cancel the donation since u r losing on maintenance, what do u suggest? Peggy"*. It is evident that this is a personal message between Nkonyeni and Dr Savoi. She was aware of the contract being signed, that Intaka was liable for the A24/1

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maintenance (due to the Bid Specification document including same) and that she was conspiring with Intaka going forward to the detriment of the Department for which she was the MEC. I further obtained a copy of the diary of Buthelezi at the time from his secretary. It reflects that he had a meeting at 10.00 am to 4.30pm on 13 December 2007 (the day the Agreement was signed) with the MEC at IALC Hospital (the venue where the Agreement was signed). Hence, Nkonyeni was scheduled to be at IALC Hospital on 13 December 2007 when the Agreement was signed.

A24/2

**29) Minutes of a meeting held at Intaka on 21 January 2008**

8.067 The Minutes of the meeting are self-explanatory and I will not repeat the entire content thereof. Paragraph three of the minutes refers to Nkonyeni and reads as follows: *"In KZN Peggy Nkonyeni (MEC of Health) can also be contacted. GS (the abbreviation for Dr Gaston Savoi as indicated in the minutes) explained that they need 24 water purification plants in KZN but Treasury is not giving the funds to Health. Therefore it is important to meet her to see how the process of the 24 plants can go ahead"*.

A25

**30) Minutes of a meeting held at Intaka on 25 January 2008**

8.068 The Minutes of the meeting are self-explanatory and was attended by Intaka representatives and representatives of the Mvela group. Paragraph three of the minutes under the heading "Water" refers to Nkonyeni and reads as follows: *"LN (abbreviation for Lunga Ncwana of the Mvela group as indicated in the minutes) said that he will try to set up a meeting with Peggy Nkonyeni, MEC of Health of KZN, during Intaka Tech World's View Challenge event"*.

A26

**31) E-mail from Dr Savoi to Nkonyeni titled "VIP Invitation – Intaka Tech World's View Challenge" dated 25 January 2008**

8.069 Dr Savoi invited Nkonyeni and her partner to attend the Intaka Tech Worlds View Challenge, as VIP spectators, that was taking place in Pietermaritzburg during the period 1 February 2008 to 7 February 2008. The documents pertaining to the event

A27/1-2

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are attached to the said e-mail.

**A27/3-5**

**32) E-mail from Dr Savoi to Nkonyeni titled "Intaka Tech Worlds View Challenge – Television Production" dated 12 February 2008**

8.070 Dr Savoi referred to a 52 minute highlights package of the Intaka Tech Worlds View Challenge and indicated the details of the dates and the channels for when the Intaka Tech Worlds View Challenge would have been screened.

**A28**

**33) An electronic Diary entry for Dr Savoi dated 18 February 2008**

8.071 An electronic entry for Dr Savoi dated 18 February 2008 was on a document electronically filed as "Agenda 18 febrero – 2 Marzo1.xls and reflects the date when the document was last modified as 22 February 2008. The diary contains the following entry:

**A29**

**Dr Savoi**

|                                   |   |
|-----------------------------------|---|
| Monday, 18 <sup>th</sup> February | 14:00 – Meeting with Peggy<br>Durban - CT |
|-----------------------------------|---|

8.072 It is apparent from the entries on this day that the meeting with Nkonyeni was to take place in Durban.

**34) E- mail from Praderi to Nkonyeni titled "Second Email" Bid Number ZNB 7295/2006-H" dated 23 April 2008**

8.073 Praderi sent the email to Nkonyeni, copied to various Intaka staff, which reads as follows:

**A30**

*"Dear Ms Nkonyeni Attached herewith, please find correspondence relating to the above mentioned subject for your kind perusal. I look forward to receiving your urgent response to this email".* Attached to email was a letter from Intaka to Nkonyeni dated 18 April 2008. The letter refers to the Bid that was awarded to Intaka on 11 September 2007 and the agreement they have entered into with the Department on 13 December 2007. The writer refers to various meetings held between Intaka and



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the Department and stated that *"the Department has shown little progress in preparing the sites for delivery of the equipment"*. He stated further that *"This failure on the part of the Department is causing unnecessary stockpiling at our premises with associated costs"* and requested Nkonyeni to give a full report of progress in order to commence with the delivery program.

**35) E-mail from Praderi to Nkonyeni titled "Bid Number: ZNB 7295/2006-H"**  
**dated 9 May 2008**

- 074 Praderi sent the e-mail, which reads as follows *"Attached herewith please find correspondence with regards to the above mentioned subject for your kind perusal"*, to Nkonyeni and attached the following two (2) x letters to the e-mail. A31/1
- i. The letter from Intaka to Nkonyeni dated 18 April 2008 referred to above. A31/2-3
  - ii. A letter from Intaka to Nkonyeni dated 9 May 2008. The letter refers to the letter dated 18 April 2008 I referred to in paragraph i. above and indicates that Intaka have not yet received a reply in this regard from Nkonyeni. Paragraph three (3) of the letter reads as follows: *"As a consequence we are taking legal advise and would suggest that this matter be resolved to avoid the accumulation of legal costs which we will seek to recover from the Department."* A31/4

**36) E-mail from Gillian Bolton to De Lange of Intaka titled "Additional Issue"**  
**dated 12 May 2008**

- 8.075 Bolton referred to her discussion with De Lange earlier the day regarding "the additional matter" in the e-mail. The e-mail reads further as follows: *"The additional matter relates to two payments of R500 000 each made by Intaka Tech to Rowmoor Investments 738 (Pty) Ltd – respectively made on 20 (Invoice 7) and 24 August 2007 (Invoice 6) – and which, although on the face of it, have apparently been described as "marketing commissions" are apparently being seen within the DSO in KZN as payments allegedly ultimately intended, whether in whole or in part, for Ms Peggy Nkonyeni, the current MEC for Health, routed, however, via her friend, Mr Mkhwanazi"*; and. *"I believe that this is also an issue, which you should look into as a* A32

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*matter of urgency and, depending on the outcome of your investigations in this regard, possibly incorporated this latter issue in the item to be included on the Board agenda when the first matter is discussed".*

**37) E-mail from De Lange to Gillian Bolton titled "Email to Ms Nkonyeni" dated 1 July 2008, 2:31 pm**

8.076 In the email from De Lange he states as follows:

A33

*"Dear Gill As discussed with Raoul de Lange, please see proposed email below to Ms Peggy Nkonyeni. Kindly provide any comments you may have. Thank you. "Dear Ms Nkonyeni I have been forwarded you text message sent to the Intaka Tech (Pty) Ltd Chairman, Dr Gaston Savoi at 20h51 on Monday, 30 June 2008. For ease of reference I quote your text below: "Hi Doc! As my defence I've bin advancing the argument that the machine we bought from u was a Brazilian product. It has since bin discovered by the scorpions that it was bought by your company from the very same company that also tendered at a lower price in durban. Does this mean I've bin mislead?" I should like to refer you to your presentation of the KwaZulu-Natal Health Budget vote in the Provincial Legislature as delivered by you on 29 April 2008 in which you identified two different machines with different specifications and different brand names. The machine supplied by us to Rowmoor Investments 738 (Pty) Ltd and which it in turn supplied to the Department of Health, flowed from a request from Rowmoor for a machine serving a specific purpose. We, in turn, and, in fact, procured the machine in question from a company called Alpha Pharm, with which we have a long-standing business relationship and from which we have previously sourced medical/pharmaceutical equipment on a number of occasions. We did not source the machine from the manufacturer and were not aware that the same manufacturer had, as it now appears from your text message, also tendered to supply the equipment directly to the Department of Health. For this reason, we are a little perplexed by your message. Could you perhaps have mistakenly assumed, given your visit to Brazil, that the machine that Rowmoor had asked us to source would be of Brazilian origin? There is, of course, also the possibility that Rowmoor may not have provided the Department with all relevant information during the acquisition process, although we must point out that this would be a little strange,*

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*given that we had submitted to Rowmoor the complete specification brochure for the machine as per the requirements provided to us. I hope that this assists in clarifying the matter for you. Kind regards"*

**38) E-mail from Gillian Bolton to De Lange titled "Email to Ms Nkonyeni" dated 1 July 2008, 3:07 pm**

8.077 "Hi Raoul Rearranged the order around a bit - see what you think (?). Kind regards Gill". **A33**

**39) E-mail from Gillian Bolton to De Lange titled "Email to MS Nkonyeni" dated 1 July 2008, 3:14 pm**

8.078 "Also meant to ask if Dr Savoi is keeping all the relevant SMSes on his phone (?)". **A33**

**40) E-mail from De Lange to Gillian Bolton titled "Email to Ms Nkonyeni" dated 1 July 2008, 3:32 pm**

8.079 "Dear Gill Yes, I advised him to keep the sms. Ta. Will review later". **A33**

**41) E-mail from De Lange to Sarah Drake titled "Email to Ms Nkonyeni" dated 1 July 2008, 3:34 pm**

8.080 "Dear Sarah Please prepare this response for peggy on Intaka letterhead - we'll fax it to her. URGENT Ta". **A34**

**42) Confirmation of email receipt from Nkonyeni Neliswa Peggy to Sarah Drake dated 2 July 2008, 9:14 am**

8.081 The subject is "Read: Letter to Ms Nkonyeni" which was sent on Wednesday, 2 July 2008 at 8:46:05 and was read on Wednesday, 2 July 2008 at 9:14:25. **A35**

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**43) Letter from De Lange to Nkonyeni titled "Text message to Intaka (Pty) Ltd Chairman" dated 2 July 2008.**

- 8.082 The above email contains the same content as the email from De Lange to Gillian Bolton on 1 July 2008, referred to above. **A36**

**44) An electronic Diary entry for Dr Savoi dated 1 October 2008**

- 8.083 An electronic entry for Dr Savoi dated 1 October 2008 was on a document electronically filed as "Agenda 29 Setiembre – 12 Octubre1.xls and reflects the date modified as 2 October 2008. The diary contains the following entry: **A37/1-2**

**Dr Savoi**

|                                    |   |
|------------------------------------|---|
| Wednesday, 1 <sup>st</sup> October | 10:00 – Peggy, Rodrigo, Lunga @ Table Bay |
|------------------------------------|---|

- 8.084 An electronic meeting entry from the Mail and Back Up Server reflects a meeting with "Peggy – MEC of Health KZN" on 1 October 2008 from 10:00 to 11:00. This entry was created on 3 October 2008. **A37/3**

- 8.085 Rennies Travel Tax Invoice number 333542 dated 8 October 2008 reflects that ticket number 3143699011 was issued to Nkonyeni to travel from Durban to Cape Town on 2 October 2008, one day later than as recorded in Dr Savoi's electronic Diary dated 1 October 2008. Rennies Travel Tax Invoice number 333174 dated 2 October 2008 reflects that accommodation for Nkonyeni was booked on 2 October 2008 at The Table Bay Hotel in Cape Town for one (1) x night and hence confirms that Nkonyeni was in Cape Town during this period. **A37/4**

**45) Minutes of a "Intaka Tech Weekly Status Meeting Friday, 3 October 2008, 10:30 am".**

- 8.086 Present at meeting were Rodrigo Savoi, Praderi and various other Intaka employees. These minutes contain various track changes and one of the items that has been inserted is on Page 2 under the heading "KZN Oxygen" and reads as follows:



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*"Mr Savoi had a meeting with the MEC of KZN, Ms Nkonyeni, who advised Intaka Tech to file a law suite against the Department of Health. Large sums of money have been spent on this project and to date we have been unable to receive payment for this. The pressure testing is outside of the contract and was never part of the contract. This was done merely due to compliancy issues".*

A38

**46) A document titled "Meeting: 20 Jan 09, 2pm G Savoi – Chairman  
 Mr R Savoi - CEO**

.087 The document appears to be minutes of an internal meeting held between Dr Savoi and Rodrigo Savoi on 20 January 2009. The document is self explanatory and I am not going to repeat the entire content thereof. Paragraph 2 under the heading "South Africa" reads as follows:

A39/1-2

*"-KZN – Department of Provincial Local Government: Delivery of balance 12 WWP plus maintenance contract on total 20 units: COO, Water Department Manager, General Counsel to follow-up.*

A39/1

- 1. We will go to the top (Peggy and Local Gov)"*
- 2. We will also sue government- meeting with ENS being arranged.*

**Relationship between Nkonyeni and Mkhwanazi**

.088 Nkonyeni in a warning statement provided by the SAPS has acknowledged that she has "a personal relationship with Lindelihle Mkhwanazi but no business relationship" and "that Mkhwanazi is a businessman and that Rowmoor Investments is his business entity". It is however also clearly evident from the Intaka records that Nkonyeni and Mkhwanazi frequently met with Dr Savoi together, at a time when Rowmoor was being established and in the lead up to the signing of the Oxyntaka contract by the Department of Health.

C1

**Meetings held between Dr Savoi and Dr Nyembezi**

8.089 An electronic Diary located amongst the electronic records seized from Intaka by the SAPS contains amongst others an electronic entry for Dr Savoi for February (2007),

E1/1



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electronically filed as "Agenda 5 – 18 febrero1.xls and reflects the date modified as 19 February 2007. The diary contains the following entry:

**Dr Savoi**

|                                       |                      |
|---------------------------------------|----------------------|
| Thursday, 15 <sup>th</sup> . February | Compleanos Dra. Busi |
|---------------------------------------|----------------------|

8.090 I understand "Compleanos" means birthday and "Dra." means Dr. which is the abbreviation for Doctor. A copy of Dr Nyembezi's identity document reflects her name as Busisiwe Muriel Nyembezi; with identity number 510215 0655 081. It is my understanding that the short name for Busisiwe is "Busi" and the date of her birth is 15 February (1951) and hence consistent with the abovementioned diary entry.

E1/3

**1) An electronic Diary entry for Dr Savoi dated 17 August 2006**

8.091 An electronic entry for Dr Savoi dated 17 August 2006 was on a document electronically filed as "Agenda 7 – 20 agosto1.xls and reflects the date modified as 19 February 2007. The diary contains the following entry:

E2

**Dr Savoi**

|                                     |                  |
|-------------------------------------|------------------|
| Thursday, 17 <sup>th</sup> . August | Ida a KZN (Busi) |
|-------------------------------------|------------------|

8.092 I understand "Ida a" means trip to, and hence the entry refers to a trip to KZN.

**2) An electronic Diary entry for Dr Savoi dated 4 September 2006**

8.093 An electronic entry for Dr Savoi dated 4 September 2006 was on a document electronically filed as "Agenda 4 – 17 setiembre1.xls and reflects the date modified as 9 February 2007. The diary contains the following entry:

E3

**Dr Savoi**

|                                     |                   |
|-------------------------------------|-------------------|
| Monday, 4 <sup>th</sup> . September | 10:00 – Dra. Busi |
|-------------------------------------|-------------------|

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**3) An electronic Diary entry for Dr Savoi dated 25 September 2006**

- 8.094 An electronic entry for Dr Savoi dated 25 September 2006 was on a document electronically filed as "Agenda 25 setiembre – 15 octubre1.xls and reflects the date modified as 19 February 2007. The diary contains the following entry:

E4

**Dr Savoi**

|                                    |                   |
|------------------------------------|-------------------|
| Monday, 25 <sup>th</sup> September | 11:00 – Dra. Busi |
|------------------------------------|-------------------|

**4) An electronic Diary entry for Dr Savoi dated 16 October 2006**

- 8.095 An electronic entry for Dr Savoi dated 16 October 2006 was on a document electronically filed as "Agenda 15 octubre – 5 noviembre 1.xls and reflects the date modified as 19 February 2007. The diary contains the following entry:

E5

**Dr Savoi**

|                                    |                  |
|------------------------------------|------------------|
| Monday, 16 <sup>th</sup> . October | 16:00 – Dr. Busi |
|------------------------------------|------------------|

**5) An electronic Diary entry for Dr Savoi dated 7 November 2006**

- 8.096 An electronic entry for Dr Savoi dated 7 November 2006 was on a document electronically filed as "Agenda 6 – 19 noviembre 1.xls and reflects the date modified as 19 February 2007. The diary contains the following entry:

E6

**Dr Savoi**

|                                     |  |
|-------------------------------------|--|
| Tuesday, 7 <sup>th</sup> . November | Dra. Busi in CT<br>8:20 - Llegada Prof. Moodley a CT / Llegada<br>Dra. Busi a CT |
|-------------------------------------|--|

- 8.097 I understand "Llegada" means arrived.

M

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**6) An electronic Diary entry for Dr Savoi dated 12 January 2007**

- 8.098 An electronic entry for Dr Savoi dated 12 January 2007 was on a document electronically filed as "Agenda 8-19 enero1.xls and reflects the date modified as 26 January 2007. The diary contains the following entry:

E7

**Dr Savoi**

|                                    |                   |
|------------------------------------|-------------------|
| Friday, 12 <sup>th</sup> . January | 14:30 – Dra. Busi |
|------------------------------------|-------------------|

**7) An electronic Diary entry for Dr Savoi dated 13 February 2007**

- 8.099 An electronic entry for Dr Savoi dated 13 February 2007 was on a document electronically filed as Agenda 5 – 18 febrero1.xls and reflects the date modified as 19 February 2007. The diary contains the following entry:

E1/1

**Dr Savoi**

|                                      |                 |
|--------------------------------------|-----------------|
| Tuesday, 13 <sup>th</sup> . February | Dra. Busi in CT |
|--------------------------------------|-----------------|

**8) An electronic Diary entry for Dr Savoi dated 23 February 2007**

- 8.100 An electronic entry for Dr Savoi dated 23 February 2007 was on a document electronically filed as "Agenda 19 febrero-4marzo1.xls and reflects the date modified as 22 February 2007. The diary contains the following entry:

E8

**Dr Savoi**

|                                     |                                |
|-------------------------------------|--------------------------------|
| Friday, 23 <sup>rd</sup> . February | 8:00 – Dra. Busi @12 Apostoles |
|-------------------------------------|--------------------------------|

**9) An electronic Diary entry for Dr Savoi dated 2 March 2007**

- 8.101 An electronic entry for Dr Savoi dated 2 March 2007 was on a document electronically filed as "Agenda 26 febrero-11Marzo1.xls and reflects the date modified as 2 March 2007. The diary contains the following entry:

E9

M

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**Dr Savoi**

|                                 |                   |
|---------------------------------|-------------------|
| Friday, 2 <sup>nd</sup> . March | 13:00 – Dra. Busi |
|---------------------------------|-------------------|

**10) An electronic Diary entry for Dr Savoi dated 2 April 2007**

- 8.102 An electronic entry for Dr Savoi dated 2 April was on a document electronically filed as "Agenda 26 marzo-15 abril1.xls and reflects the date modified as 29 March 2007. The diary contains the following entry:

**E10**

**Dr Savoi**

|                                 |   |
|---------------------------------|---|
| Monday, 2 <sup>nd</sup> . April | Dra. Busi, Sr. Solomon in CT<br>16:00 – Dr. Busi<br>20:00 – Dinner with Busi, Solomon, Rodrigo<br>@ Constantia Uitsig |
|---------------------------------|---|

**11) An electronic Diary entry for Dr Savoi dated 1 August 2007**

- 8.103 An electronic entry for Dr Savoi dated 1 August 2007 was on a document electronically filed as "Agenda 30 julio – 12 agosto1.xls and reflects the date modified as 3 August 2007. The diary contains the following entry:

**E11**

**Dr Savoi**

|                                     |  |
|-------------------------------------|--|
| Wednesday, 1 <sup>st</sup> . August | 10:00 – Ct – Durban<br>12:00 – Meeting with Dr. Busi |
|-------------------------------------|--|

**12) An electronic Diary entry for Dr Savoi dated 13 May 2008**

- 8.104 An electronic entry for Dr Savoi dated 13 May 2008 was on a document electronically filed as "Agenda 14 – 27 abril abril 1.xls and reflects the date modified as 18 April 2008. The diary contains the following entry:

**E12/2**

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**Dr Savoi**

|                                 |                                 |
|---------------------------------|---------------------------------|
| Tuesday, 13 <sup>th</sup> . May | 11:00 – Dra. Busi @ Catherina's |
|---------------------------------|---------------------------------|

**Summary of Findings**

8.105 Detailed below is a summary of significant findings from the investigation conducted into the relationship between Nkonyeni and Dr Savoi and or Intaka; and between Nkonyeni and Mkhwanazi of Rowmoor Investments.

- 1) From the documentation located in the electronic records seized by the SAPS from Intaka and from the documentation provided by Rennie's it is evident that Nkonyeni often with Mkhwanazi, attended regular meetings in 2007 with Dr Savoi as summarised in the table hereunder. The contract for the Oxyntakas was signed by Dr Mbele on 13 December 2007 and two (2) x payments of R500,000 each were paid to Rowmoor Investments on 3 August 2007 and 23 November 2007:

|    | Date of meeting | Description of event  |     |
|----|-----------------|---|-----|
| 1  | 18 January 2007 | Dr Busi Nyembezi and the MEC of Health for KwaZulu-Natal at our (Intaka) premises   | A4A |
| 2  | 12 April 2007   | MEC Peggy in CT – A Conf  | A5  |
| 3  | 13 April 2007   | MEC Peggy in CT – A Conf  | A5  |
| 4  | 4 May 2007      | Peggy and Linda in CT<br>09:00 – Peggy Nkonyeni, Linda                              | A6  |
| 5  | 7 June 2007     | 09:00 – Linda + MEC Peggy   | A7  |
| 6  | 21 June 2007    | 09:00 – Collect Linda and Peggy<br>09:30 – Meeting with Dr Shabbir, Linda and Peggy | A8  |
| 7  | 10 July 2007    | Linda Mkhwanazi and MEC Peggy   | A9  |
| 8  | 10 July 2007    | Linda and MEC Peggy in CT<br>20:00 – Linda and MEC Peggy @ Steenberg                | A10 |
| 9  | 11 July 2007    | 08:30 – Linda, MEC Peggy  | A10 |
|    | 3 August 2007   | Payment of R500,000 to Rowmoor Investments  |     |
| 10 | 16 August 2007  | Peggy Y in CT to be Conf  | A11 |
| 11 | 17 August 2007  | Peggy Y in CT to be Conf  | A11 |

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|    | Date of meeting   | Description of event  |     |
|----|-------------------|---|-----|
| 12 | 3 September 2007  | 09:00 – MEC Peggy, Linda in CT  | A12 |
| 13 | 10 October 2007   | 20:00 – Linda Y MEC Peggy @ Streenberg                                | A16 |
| 14 | 5-6 November 2007 | Accommodation at Steenberg Hotel,<br>Mr L Mkhwanazi and Ms O Nkonyeni | A18 |
| 15 | 8 November 2007   | MEC Peggy in CT<br>09:30 - Peggy                                      | A19 |
|    | 23 November 2007  | Payment of R500,000 to Rowmoor Investments                            |     |
| 16 | 18 February 2008  | 14:00 – Meeting with Peggy Durban – CT                                | A29 |
| 17 | 1 October 2008    | 10:00 – Peggy, Rodrigo, Lunga @ Table Bay                             | A38 |

- 2) Savoi in his affidavit dated 14 July 2008 has referred to 2 x payments to Rowmoor Investments 738 (Pty) Ltd for "commission that was owed to Rowmoor for the sale of two water purification plants". The payments in the amounts of R500,000 each were made on 30 August 2007 and 23 November 2007 respectively. The marketing and sale took place on or prior to 6 October 2006. Rowmoor Investments 738 (Pty) Ltd was only registered on 26 March 2007 and Mkhwanazi was appointed as a Director on 4 May 2007, the same day when he had a meeting with Mazars (who are also the auditors of the Intaka Group of Companies). It appears from the electronic Diary of Savoi and from the information provided by Rennies Travel that Mkhwanazi together with Nkonyeni also attended a meeting with Dr Savoi in Cape Town on 4 May 2007.

B1  
A6

- 3) Nkonyeni has acknowledged in that she has a personal relationship with Mkhwanazi, that Mkwanzazi is a businessman and that Rowmoor Investments is his business entity.

- 4) Nkonyeni was present at IALC Hospital on 13 December 2007 when the Agreement was signed by the KZN Department of Health for the Awarding of a contract for Oxyntaka Self-Generating Oxygen Plants to Intaka. On 14 December 2007 she sent the following sms to Savoi: *"Doc! The contract was signed yesterday although your guys were not happy with maintenance and few other things buy they were cruched because of what was reflected in the bid"*

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References in the margin refer to  
 appendix numbers

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*document. Next time we'll have to be more careful and perhaps u need to cancel the donation since u r losing on maintenance, what do u suggest? Peggy". It is evident that this is a personal message between Nkonyeni and Savoi. She was aware of the contract being signed, that Intaka was liable for the maintenance (due to the Bid Specification document) and that she was conspiring with Intaka going forward to the detriment of the Department for which she was the MEC.*

- 5) According to the minutes of an Intaka meeting held on 30 October 2008, "Mr Savoi had a meeting with the MEC of KZN, Ms Nkonyeni, who advised Intaka Tech to file a law suite against the Department of Health". It is evident from the minutes that Nkonyeni is again conspiring with Intaka representatives to the detriment of the Department for which she was the MEC. A38/2
- 6) From the electronic Diary for Dr Savoi located in the electronic records seized by the SAPS from Intaka it is also evident that Dr Nyembezi attended regular meetings with Dr Savoi as summarised in the table hereunder.

|    | Date of meeting   | Description of event   |     |
|----|-------------------|--|-----|
| 1  | 17 August 2006    | Ida a (trip to) KZN (Busi)   | E2  |
| 2  | 4 September 2006  | 10:00 - Dra. Busi  | E3  |
| 3  | 25 September 2006 | 11:00 - Dra. Busi  | E4  |
| 4  | 16 October 2006   | 16:00 -- Dr. Busi  | E5  |
| 5  | 7 November 2006   | Dra. Busi in CT<br>8:20 -- Llegada Prof. Moodley a CT/ Llegada (arrived)<br>Dra. Busi a CT | E6  |
| 6  | 12 January 2007   | 14:30 -- Dra. Busi   | E7  |
| 7  | 18 January 2007   | Dr Busi Nyembezi and the MEC of Health for KwaZulu-Natal at our (Intaka) premises          | A4A |
| 8  | 13 February 2007  | Dra. Busi in CT  | E1  |
| 9  | 23 February 2007  | 08:00 -- Dra. Busi @ 12 Apostoles  | E8  |
| 10 | 2 March 2007      | 13:00 -- Dra. Busi   | E9  |

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**The State v Gaston Savoi and others**

|    | Date of meeting | Description of event   |     |
|----|-----------------|--|-----|
| 11 | 2 April 2007    | Dra. Busi, Sr Solomon in CT<br>16:00 – Dr. Busi<br>20:00 – Dinner with Busi, Solomon, Rodrigo @<br>Constantia Uitsig | E10 |
| 12 | 1 August 2007   | 10:00 – CT – Durban<br>12:00 – Meeting with Dr. Busi   | E11 |
| 13 | 13 May 2008     | 11:00 – Dra. Busi @ Catherina's  | E12 |

  
**T S White**  
**Director: Forensic Services**  
**28 October 2011**

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 appendix numbers

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TSW15

In the matter between:

THE STATE

And

GASTON SAVOI  
and others

ACCUSED 1

## REPORT OF TREVOR SEAN WHITE

|                              |   |
|------------------------------|---|
| Dated                        | 28 October 2011   |
| Specialist field             | Chartered Accountant and Forensic Auditor   |
| On behalf of the Prosecution | The Director of Public Prosecutions   |
| On the instruction of        | The Department of National Treasury   |
| Subject matter               | Investigation conducted into the Awarding of a contract for an Oxyntaka Self- Generating Oxygen Plant at Murchison Hospital to Intaka Investments (Pty) Ltd |

Trevor White  
PricewaterhouseCoopers  
PO Box 1049  
DURBAN  
4000Telephone 031 271 2000  
Facsimile 031 202 8220  
Cell phone 082 454 6864

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**ABBREVIATIONS AND TERMINOLOGY**

The following are abbreviations and terminology that have been used in this report:

| <b><i>Abbreviated name/<br/>terminology</i></b> | <b><i>Full name and/or description</i></b>   |
|---|--|
| Afrox   | African Oxygen Limited   |
| AFU   | Asset Forfeiture Unit  |
| Bagus   | Mr Rafique Bagus, former Deputy Director General, Trade and Investment                                     |
| Beatrice Shabalala                              | Ms Beatrice Ntombenhle Otrina Shabalala (wife of Shabalala)  |
| Cheatle   | Ms Samantha Cheatle (Foulkes), Office Manager, HOD KZN Department of Health                                |
| DPP   | Director of Public Prosecutions  |
| Dr Savoi  | Dr Gaston Savoi, Intaka  |
| Dr Sewlal                                       | Dr Andy Sewlal, General Manager, Infrastructure Development and Clinical Support, KZN Department of Health |
| HOD   | Head of Department   |
| Intaka  | Intaka Investments (Pty) Ltd, Intaka Tech (Pty) Ltd, Intaka Holdings (Pty) Ltd                             |
| KZN   | KwaZulu-Natal  |
| KZNLG & TA                                      | The KwaZulu-Natal Department of Local Government and Traditional Affairs                                   |
| Mazars  | Mazars Moore Rowland, Intaka external auditors   |
| Mrs Zondi                                       | Ms AN Zondi, ex Head Legal Services KZN Department of Health   |
| Nkonyeni  | Ms Peggy Nkonyeni, former MEC KZN Department of Health   |
| Northern Cape DOH                               | The Northern Cape Department of Health   |
| PFMA  | The Public Finance Management Act No 1 of 1999   |
| Praderi   | Mr Fernando Praderi, Intaka  |
| Professor Green-                                | Professor Ronald Green-Thompson, former Superintendent   |

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|  |  |
|--|--|
| Thompson                                 | General, KwaZulu-Natal Department of Health  |
| PSA                                      | Pressure Swing Absorber  |
| PS Act                                   | The Public Service Act of 1994   |
| PwC                                      | PricewaterhouseCoopers   |
| SAPS                                     | South African Police Services  |
| Shabalala                                | Mr Sipho Shabalala, former Head KZN Provincial Treasury and husband of Beatrice Shabalala              |
| Skyros Medical                           | Skyros Medical Supplies (Pty) Ltd  |
| Stevens                                  | Mr V Stevens, KZN Department of Health   |
| The Constitution                         | The Constitution of the Republic of South Africa of 1996   |
| The Department/ The Department of Health | The KwaZulu-Natal Department of Health   |
| The KZN Procurement Act                  | The KwaZulu-Natal Procurement Act, Act no 3 of 2001  |
| The PSA                                  | The Public Service Act of 1994   |
| van der Merwe                            | Mr Gerhardus van der Merwe, ex-Manager, Infrastructure Development Component, KZN Department of Health |
| Walker                                   | Mr Terry Walker, ex- Manager Engineering Services, KZN Department of Health                            |
| Westwood                                 | Mr Robin Westwood, Deputy Manager, Infrastructure Development Component, KZN Department of Health      |

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**A. AUTHOR'S DETAILS**

**1.000 Name**

1.001 Trevor Sean White.

**2.000 Personal details**

2.001 I am a male with identity number 6611245014087, 44 years old. I am a director of PricewaterhouseCoopers Advisory Services (Pty) Ltd, 102 Stephen Dlamini Road, Berea, Durban with telephone number (031) 2712000.

**3.000 Experience and qualifications**

3.001 I joined Price Waterhouse in 1989, and was admitted as a director of PricewaterhouseCoopers on 1 July 1998, following the merger of Price Waterhouse and Coopers and Lybrand. I am presently the director in charge of the Risk Advisory Services department, which incorporates the Forensic Investigations Department of PricewaterhouseCoopers (PwC) in KwaZulu-Natal.

3.002 I have conducted numerous fraud investigations for both public and private sector clients and have given evidence in the South African High Court and the Regional Court and in the Lesotho High Court. I have also presented evidence to a Commission of Enquiry, the Commission for Conciliation, Mediation and Arbitration ("CCMA") and at various disciplinary hearings. I am trained in auditing techniques and hold a Bachelor of Commerce degree and Post Graduate Diploma in Accountancy from the former University of Natal Durban. I was also admitted as a member of the South African Institute of Chartered Accountants in 1992. I am a Certified Fraud Examiner, being admitted as a full member of the Association of the Certified Fraud Examiners, a Texas based organisation, in 1998. I have been involved in a number of business valuations and performance audits. My specialist field is Forensic Auditing and as such I have extensive experience in analysing,

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reviewing and verifying financial information and accounting records. I have also chaired three investigative Commissions of Enquiry into Fraud and Corruption in Swaziland.

**B. MANDATE AND ISSUES TO BE INVESTIGATED**

**4.000 Appointment**

4.001 The terms of our appointment are detailed in our agreement with National Treasury which was signed by Mr Freeman Nomvalo, on 15 October 2010. The said Agreement relates to additional work required by the South African Police Services (SAPS) and the Director of Public Prosecutions (DPP) as a result of the investigations we conducted into the Intaka Group of Companies (Intaka) and their alleged involvement in fraud and corruption involving officials from the KZN Department of Health (the Department of Health), KZN Department of Local Government and Traditional Affairs (KZN LG & TA) and the Northern Cape Department of Health (the Northern Cape DOH). This report, which has been prepared at the request of the SAPS and DPP, covers the awarding of a contract for an Oxyntaka Self- Generating Oxygen Plant at Murchison Hospital by the Department of Health, to Intaka Investments. It further includes information relating to Professor Ronald Green-Thompson (Professor Green-Thompson), the former Superintendent General and Head of Department (HOD) of the KZN Department of Health and Mr Sipho Shabalala (Shabalala) the former Head of KZN Provincial Treasury. This report must not be read in isolation but must be read in conjunction with my two reports issued dated 24 May 2010. The said reports deal with the investigation conducted into the procurement of Oxyntaka Self- Generating Oxygen Plants and Wataka Water Purification Plants by the KZN Department of Health.

4.002 I am not required to and did not undertake an audit in terms of the International Standards on Auditing. The scope of my work was limited to a review of the documentary evidence made available to me and enquiries undertaken to address issues identified in the execution of the investigation undertaken. I have not verified the authenticity or validity of the records and documents provided to me, unless

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otherwise stated.

- 4.003 This report has been prepared solely for use in the criminal matters registered with SAPS by the Department. It may also with the prior written consent of the Director of Public Prosecutions be used in any civil or disciplinary proceedings that the Department may wish to initiate. It may not be suitable for any other purpose and it should not be used, reproduced or circulated for any other purpose without my prior written consent. It should be a condition of such consent, if given, that PwC and myself accept no responsibility to that third party and that such third party will hold PwC and myself harmless in respect of any consequences of such disclosure. Whether or not I have given consent, PwC and myself will not accept liability or responsibility to any other party who may gain access to this report.
- 4.004 I have included information relevant to the investigation and related circumstances but cannot conclude on the completeness of such information as the possibility exists that not all-relevant information and documentation was made available to me. Any documentation or information brought to my attention subsequent to the date of this report, which will affect the findings detailed herein, will require my findings to be adjusted and qualified accordingly.
- 4.005 This report contains hearsay evidence based on interviews conducted with individuals and affidavits/warning statements taken by the SAPS. I deem the aforementioned evidence to be appropriate to sketch the full picture of the allegations raised.

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**5.000 Background**

5.001 This report focuses on the procurement procedures followed in the awarding of a contract for an Oxynataka Self- Generating Oxygen Plant at Murchison Hospital by the Department of Health, to Intaka Investments in 2005. Professor Green-Thompson was the HOD of the Department of Health at the time, whilst Shabalala was the Head of the KZN Provincial Treasury. This report covers additional information on the relationship between Professor Green-Thompson, Shabalala and Dr Gaston Savoi (Dr Savoi) and Intaka. It relates to the investigation conducted into the Intaka Group of Companies and their alleged involvement in fraud and corruption involving officials from the KZN Department of Health.

**C. BASIS OF INVESTIGATION**

**6.000 Execution of fieldwork and gathering of information**

6.001 Members of my staff have assisted me in the execution of fieldwork and gathering of information necessary to compile this report, however, where an opinion is expressed in this report it is my own opinion.

**7.000 Sources documents**

7.001 The information dealt with in this report was obtained from the sources listed below:

- 1) Official documents in the custody of the KZN Department of Health;
- 2) Documents seized by the SAPS from Intaka;
- 3) Electronic records seized by the SAPS from Intaka; and
- 4) Documents obtained by the SAPS from third parties including those from Mazars Moores Roland (Mazars) external auditors for Intaka.

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**D. DETAILED PROCEDURES AND FINDINGS**

- 8.000 The detailed procedures and my key findings are addressed below in respect of the awarding of a contract for an Oxyntaka Self-Generating Oxygen Plant at Murchison Hospital by the Department of Health to Intaka Investments in 2005.

**Applicable Legislation and Procurement Policy and Procedures**

- 8.001 I deem it necessary to refer to the relevant/ applicable legislation and the prescribed procurement policies and procedures at the time (2005) when Intaka was awarded the contract before proceeding further. I shall only attach relevant sections of the legislation and policies where applicable as these documents are bulky and it is not necessary to attach the documents in their entirety.

**The Public Finance Management Act No 1 of 1999 and the Public Service Act 1994** **A1-A2**

- 8.002 The Public Finance Management Act No 1 of 1999 (the PFMA) was assented to on 2 March 1999 *"to regulate financial management in the national government and provincial governments; to ensure that all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively; to provide for the responsibilities of persons entrusted with financial management in those governments; and to provide for matters connected therewith"*. **A1/1**

- 8.003 The following definitions are relevant:
- 1) "Accounting officer" means a person mentioned in section 36. **A1/2**
  - 2) "Department" means a national or provincial department or a national or provincial government component. **A1/2**
  - 3) "Fruitless and wasteful expenditure" means expenditure which was made in vain and would have been avoided had reasonable care been exercised. **A1/3**
  - 4) "Irregular expenditure" means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including: the PFMA; the State Tender Board Act No 86 of **A1/4**

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|       | 1968, or any regulations made in terms of that Act; or any provincial legislation providing for procurement procedures in that provincial government.  |                    |
|       | 5) "Provincial department" means: The Office of a Premier listed in Schedule 1 to the Public Service Act, 1994 (PS Act); and a provincial department listed in Schedule 2 to the PSA. The KwaZulu-Natal Department of Health is included in Schedule 2 of the PSA.   | A1/6<br>A2<br>A2/4 |
| 8.004 | In terms of section 3 the PFMA, to the extent indicated in the Act, applies to amongst others "departments".   | A1/8               |
| 8.005 | Subsection (1) of Section 36 (of the PFMA) provides for "accounting officers": <i>"every department and every constitutional institution must have an accounting officer"</i> . Subsection (2) (a) of Section 36 further adds that: <i>"subject to subsection 3 the head of a department must be the accounting officer for the department"</i> . Sub-section (3): <i>"the relevant treasury may, in exceptional circumstances, approve or instruct in writing that a person other than the person mentioned in subsection (2) be the accounting officer for a department"</i> . | A1/9-10            |
| 8.006 | Section 38 of the PFMA provides for "general responsibilities of accounting officers"-<br>(1) "The accounting officer for a department"-<br>(a) <i>"must ensure that the department has and maintains: (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective"</i> .   | A1/10              |
|       | <b>The KwaZulu- Natal Department of Health Procurement Policy and Procedures</b>   | A3                 |
| 8.007 | The KwaZulu- Natal Department of Health Procurement Policy and Procedures (the <b>Departments Procurement Policy and Procedures</b> ) is dated 14 October 1999 and provides for policy and procedures for amongst others tenders for level 4 contracts. Level 4 means contracts exceeding R250,000. In terms thereof <i>"all level 4 delegations must be advertised and processed by the Departmental Logistics Section in accordance with applicable Tender Board Act requirements"</i> . The document appears to have been signed by Professor Green- Thompson on 14           | A3/1<br>A3/3       |

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October 1999.

|       |  |       |
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| 8.008 | The notes to level 4 further provides for the following: <i>"all tenders for requirements exceeding the amount of R250,000 per case will be invited by Procurement Administration for the procurement of supplies or services, the hiring or letting of anything, the acquisition or granting of any right or the disposal of movable State property. Particulars of the requirement will be advertised in the Provincial Gazette and appropriate local newspapers and tenders will close at Procurement Administration"</i> . | A3/18 |
|       | <b>The KwaZulu-Natal Procurement Act No 3 of 2001</b>  | A4    |
| 8.009 | The KwaZulu-Natal Procurement Act No 3 of 2001 (the <b>KZN Procurement Act</b> ) was enacted <i>"to provide for a procurement system to give effect to section 217 of the Constitution, and to provide for matters connected therewith"</i> .  | A4/1  |
| 8.010 | The following definitions are relevant:  |       |
|       | 1) <i>"Accounting officer"</i> in relation to a department, means the accounting officer for the department within the meaning of section 36 of the PFMA".   | A4/3  |
|       | 2) <i>"Department"</i> means that department within the KZN provincial administration dealing primarily with finance matters.  | A4/4  |
|       | 3) <i>"department"</i> means a department within the KZN provincial administration and listed in the first column of Schedule 2 of the PSA.  | A4/4  |
|       | 4) <i>"Procurement Administration Office"</i> means the Procurement Administration Office established under section 26 (of the KZN Procurement Act).   | A4/4  |
| 8.011 | Section 2 provides for the primary objectives of the KZN Procurement Act- <i>"to establish a system for the procurement of goods and services by the provincial government that is fair, equitable, transparent, competitive and cost-effective"</i> .   | A4/5  |
| 8.012 | Section 3 reflects that the KZN Procurement Act applies to every <i>"department"</i> .   | A4/5  |
| 8.013 | Section 4 provides for the establishment of a Central Procurement Committee (the   | A4/5  |

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CPC) in the "*Department*" (i.e. in Provincial Treasury being the department in provincial administration dealing primarily with finance matters).

- 8.014 Section 5 (1) reflects that the CPC must do all that is necessary or expedient to achieve the objectives of this Act under section 2, and for this purpose must- (a) adjudicate tenders and award contracts for the procurement of immovable property, goods or services, the disposal of goods or the granting of rights by the provincial government in cases where the value of the contract is- (i) above the delegated limit **A4/5**
- 8.015 Section 26 provides for (1) the Establishment of a Procurement Administration Office within the "*Department*"; and (2) that the Procurement Administration Office must be composed of officials of the "*Department*" designated by the Head of the Department. **A4/11**
- 8.016 The KZN Procurement Act was repealed on 20 December 2005 from which date the KwaZulu-Natal SCM Policy Framework and Treasury Regulations 16A came into effect in the KZN Province.
- The Constitution of the Republic of South Africa 1996** **A5**
- 8.017 Section 217 of the Constitution of the Republic of South Africa 1996 (the **Constitution**) provides for Procurement: **A5/2**
- 1) When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
  - 2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for
    - a) categories of preference in the allocation of contracts; and
    - b) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.
  - 3) National legislation must prescribe a framework within which the policy referred

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to in subsection (2) must be implemented.

**Affidavits of Gaston Savoi**

**B1+B2**

- 8.018 I previously in my report dated 24 May 2010 referred to an affidavit of Dr Savoi handed to me by the SAPS attached hereto for ease of reference. The said affidavit purports to have been signed by Dr Savoi on 14 July 2008. I also received a further affidavit of Dr Savoi handed to me by the SAPS that purports to have been signed by him on 21 August 2008. The 2 affidavits are similar but not identical; the 1<sup>st</sup> consists of 41 paragraphs and the 2<sup>nd</sup> consists of 48 paragraphs, hence the latter contains additional information. Both affidavits contain the following information relevant to the investigation of the procurement of an Oxyntaka by the Murchison Hospital:
- 1) Dr Savoi arranged a fact finding visit to South America at Intaka's cost "for a delegation from KZN so that it's members could see for themselves how both the self-generating oxygen and the water purification plants operated in order to assist the delegation in deciding whether the equipment might indeed prove useful in KZN". **B1/4+B2/4**
  - 2) The visit took place from 20 to 23 March 2004 and members of the South African delegation included Shabalala, Dr Moyo-Ndwandwa and Mrs Ngema (from TIKZN), Professor Green-Thompson (the then head of the KZN Department of Health and now a Special Advisor to the National Minister of Health) and Mr Bagus. **B1/4+B2/4**
  - 3) "On the delegation's return to South Africa, the KZNPG indicated that it was interested in pursuing both the issue of self-generating oxygen equipment as (sic) also the water purification plants, the key persons in the process of further discussions being Mr Shabalala and Professor Green Thompson". **B1/4+B2/5**
  - 4) "After some time, the KZNPG subsequently decided that an on-site oxygen and medical air generation plant should be installed at Murchison Hospital in KZN as a pilot project, given, especially, the enormous potential savings on oxygen and medical gas costs that could result from the use of such equipment". **B1/5+B2/5**

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**Affidavit of Professor Green-Thompson**

**B3**

8.019 During the course of this investigation I, together with the investigating officer, interviewed Professor Green-Thompson at which time he was still a potential State witness and not an accused in this matter. Subsequent to the interview process a draft affidavit was compiled for Professor Green-Thompson and provided to him for any additions, deletions or alterations. We met him again thereafter together with the investigating officer Lieutenant Colonel du Plooy during which time he reviewed the contents of his affidavit and requested changes thereto. The affidavit was subsequently amended and again presented to Professor Green-Thompson by Superintendent du Plooy who dealt with it further. I was provided with a copy of the affidavit purported to have been signed by Professor Green-Thompson on 5 May 2011.

8.020 I wish to refer to the affidavit of Professor Green-Thompson that relates to the background into the matter.

1) Professor Green-Thompson was employed as the HOD at the KZN Department of Health during the period May 1995 to 31 December 2005. Dr Zweli Mkhize (Dr Mkhize), the current Premier of the KZN Province was the MEC for the KZN Department of Health during the same term until mid 2005. Professor Green-Thompson reported directly to Dr Mkhize during this period and thereafter (i.e. mid 2005 to 31 December 2005) to Mrs (Peggy) Nkonyeni. Documentation located in the personal file of Professor Green-Thompson reflects he was employed by the Department of Health for the period 22 May 1995 to 31 December 2005.

**B3/1**

2) As part of a cost savings initiative various items were identified by Professor Green-Thompson and Senior Management of the Department, as the Departments biggest expenditure items, which included oxygen.

**B3/1-2**

3) Professor Green-Thompson investigated the supply of oxygen to the Department and determined that African Oxygen Limited (Afrox) was the only supplier of oxygen to the Department since 1994. The National Treasury had entered into a National Tender with Afrox to supply oxygen to the Department of Health which

**B3/2**

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included the KZN Department of Health. The latter had to honour the said Agreement and abide by it; and could not implement alternate methods "during this period" (I am not certain what period specifically is being referred to by Professor Green-Thompson as a number of National contracts were awarded to AFROX for the supply of oxygen during the period 1995 to 2005).

- 4) *"I recall from memory only I was attending a meeting with Mr Sipho Shabalala (Mr Shabalala), who was the then Head of KZN Treasury Department during early 2004, during which time he introduced me to Dr Gaston Savoi (Dr Savoi) as a Director of Intaka. Dr Savoi introduced himself to me and I recall having a discussion about the nature of his business that includes amongst other services the health care sector. Our initial conversation included a discussion surrounding an oxygen plant they offered that can generate oxygen on site known as an "Oxyntaka". I was quite interested in the supply of this type of service because oxygen was one of the items the department wanted to make savings on and I saw it as an opportunity, hence my interest in the product. The patients are the Departments priority and the department had to ensure that the product is safe and can be used by the Department for our patients. A feasibility study into the Oxyntaka unit was then planned".* B3/2
- 5) Professor Green-Thompson then referred to a letter dated 29 March 2004 (RGT1), that will be discussed later in this report (refer to annexure D3 of this report). Of significance is that he states that he received the letter around the time of his first meeting with Dr Savoi during which time he was introduced to Dr Savoi by Shabalala. B3/2-3  
B3/7-8
- 6) *"Mr Bagus at the time was having discussions with Intaka and the nature of their business. I was thereafter invited by the DTI as part of a delegation of people to visit South America and to inspect the Oxyntaka plants installed that was operational and to determine the feasibility thereof in KZN and the safety of oxygen produced. This was an official visit as HOD. The other persons who accompanied me and Dr Savoi of Intaka to Brazil in South America are the following:* B3/3
- i. *Mr Rafique Bagus, former Deputy Director General, Department of Trade and Investment;*
  - ii. *Mr Shabalala, former HOD of KZN Treasury; and*

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iii. *Mrs Manana Nhlanhla, former Chairperson of KZN Trade and Investment*”.

7) *"The delegation of people flew together to Brazil and we have stayed over in the same hotel. We visited a few hospitals in Brazil where the Oxyntaka plants are in use. We met with Intaka technicians during these site visits as well as with a number of Hospital Managers as well as technical and clinical staff who work at these institutions. The feedback from the staff was positive. We also met with surgeons and anaesthetists where the oxyntaka units were in use. They also gave positive feedback on the product and made the comment "on condition that the Oxyntaka unit come with a back up of oxygen in support of the primary source, i.e. the Oxyntaka unit in the event that the plant fail to generate sufficient oxygen or in the event the purity level drop below a certain %". I recall the comment was made to ensure the continuous supply of oxygen to patients at all times". I wish to point out the relevance of the condition of back up of oxygen that will again be referred to by me later in this report.*

**B3/3**

8) Professor Green-Thompson alleged further that he only stayed for a few days in Brazil due to other business related commitments and had to return back to South Africa earlier than the other members of the party. Intaka paid for all their expenses during the aforesaid visit according to Professor Green-Thompson.

**B3/3-4**

8.021 I will also during the course of this report again refer to the rest of Professor Green-Thompsons affidavit when relevant and applicable.

**Background**

8.022 In my report dated 24 May 2010 in paragraph 9.033, relating to the procurement of 52 Oxyntaka Self-Generating Plants by the Department of Health from Intaka, I referred to the commissioning of an Oxyntaka plant as a pilot project at Murchison Hospital by Intaka. I shall for ease of reference repeat below what I had determined at the time (May 2010).

8.023 We had not been provided with any documentation from the Department setting out the procurement procedures followed in the awarding of the said order to Intaka for Murchison Hospital. I determined based on the Departments BAS records that

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payments amounting to R1,717,717.80 were made to Intaka for Murchison Hospital commencing 4 October 2005 to 15 December 2009. We further were not in possession of all payment vouchers or the Agreement entered into with Intaka. Based on available payment vouchers and paid invoices the Department paid for a fixed amount of 3,000kg's of oxygen per month, recorded as "one month's rental" on the Intaka invoice. Hence, this would suggest that the Department was not paying for the "actual" amount of oxygen consumed by Murchison Hospital. I will refer to this in more detail later in this report. We were not requested or mandated to investigate the "contract" awarded to Intaka for Murchison Hospital at the time (May 2010).

**The awarding of a contract for an Oxyntaka Self- Generating Oxygen Plant at Murchison Hospital by the Department of Health to Intaka Investments in 2005**

- |       |   |                |
|-------|---|----------------|
| 8.024 | I determined from the Departments BAS records that payments amounting to R2,242,277.40 were made by the KZN Department of Health to Intaka, in respect of the awarding of the contract for an Oxyntaka self-generating oxygen plant at Murchison Hospital, during the period 4 October 2005 to 18 August 2010. I determined as will be discussed later in this report that the contract between the Department and Intaka (for the Oxyntaka plant for Murchison hospital) was for a period of 5 years commencing on 8 April 2005 and ending on the last day (31 <sup>st</sup> ) March 2010. | C1/1           |
| 8.025 | I prepared a spreadsheet detailing the payments made to Intaka and sorted in firstly into ascending payment date order and thereafter into ascending order for the period in which the oxygen was provided on a monthly basis. I wish to briefly refer to the payments and relevant months supported by payment vouchers. I have not attached all 58 (fifty eight) payment vouchers to this report, as I will only refer to some of them. However, all payment vouchers are available for inspection should this be required.   | C1/1<br>C1/2   |
| 8.026 | The Department made the first payment to Intaka on 4 October 2005 against order number N0381579 in the amount of R60,990. The said order comprised 2 (two) invoices submitted by Intaka for payment.  | C2/1-2<br>C2/5 |



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- 1) Invoice number IOA10001 dated 12 May 2005 for "*service supplied- one month's rental in accordance with contract, request for deposit*" in the amount of R28,500; and **C2/3**
- 2) Invoice number INA10014 dated 1 May 2005 for "*service supplied- one month's rental in accordance with contract, 1 July 2005 to 30 July 2005*" in the amount of R32,490 (R28,500 plus VAT). **C2/4**
- 8.027 I later determined when examining the contract, to be discussed later in this report, that it provided for the following: a deposit equal to one (1) month rental upon signature of the contract; and a "*guaranteed usage*" of 36,000kg's (thirty six thousand) per annum i.e. 3,000kg's per month at R9.50 per kilogram plus VAT (R32,490 per month). The commencement date was recorded as 8 April 2005. However the Oxyntaka was only commissioned at the hospital at a later date. Hence, the first payment was made in terms of the contract only in October 2005 due to the delay in the commissioning of the plant, the commencement date was 1 July 2005. **D31**  
**D31/9**  
**D31/20**
- 8.028 All Intaka invoices submitted for payment thereafter up to and including May 2006; invoice number INA10074, referred only to the description of services as "*service supplied- one month's rental in accordance with contract*" and the relevant month, or similarly worded invoices. The reference to the 3000 kilograms of oxygen invoiced does not say if this was actually used by Murchison hospital. **C3/3**
- 8.029 Invoice number 74 for July 2006 attached to order number P0041026 referred to the description of services provided as follows: "*Service supplied rental for July 2006 in accordance with contract from 01/07/2006 to 31/07/2006 (3,000kg rate of R9.50)*". Again, even though the format of the invoice has changed, it does not specify if the 3000 kg's of oxygen was actually consumed. **C4/3**
- 8.030 Invoice number 163 for September 2006 attached to order number P0041995 referred to the description of services provided as follows: "*Charge for oxygen consumed in September 2006 in accordance with contract from 01/09/2006 to 30/09/2006 (3,000kg @ R10.07/kg)*". Hence, this was the first time Intaka had recorded the number of kilograms "*consumed*" which is factually incorrect as Intaka **C5/3**
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charged the Department for 3,000kgs of oxygen per month for the duration of the contract period regardless of how much oxygen was actually consumed.

- 8.031 Intaka from September 2006 always referred to "oxygen consumed" and "3,000kg" in the description column on the invoices. The Department made a final payment to Intaka on 18 August 2010 against order number A650905 in the amount of R86,526. C6/1  
 The said order reflects the payment was made for 2 (two) months: March and April 2010. I have been provided with only (1) one invoice for March 2010, however the services provided in April 2010 is not in dispute and has also been confirmed by Murchison hospital staff responsible for payments.
- 1) Invoice number 1943 dated 31 March 2010 refers to "charged for oxygen consumed in accordance with contract from 01/03/2010- 31/03/2010, (3000kg @ R12.65 p/kg excl)" in the amount of R43,263. C6/2
- 8.032 A number of documents were received and identified from the following sources relevant to the investigation at Murchison Hospital:
- 1) Department of Health;
  - 2) Hard copy documents seized by the SAPS from Intaka;
  - 3) Electronic records seized by the SAPS from Intaka; and
  - 4) Documents subpoenaed by the SAPS from third parties, and in particular from Mazars.
- 8.033 I reviewed the documents, in order to obtain a clear understanding of the sequence of events in terms of the documents. There are a large number of documents; the majority of which have been included in this report. However, I deem it necessary to refer only to those that I believe to be of significance. I will briefly discuss each of the said documents and the relevant content of each. This will be supported by affidavits obtained from Departmental officials and third parties who have been interviewed where necessary.



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**A letter on an Intaka letterhead dated 4 March 2004**

**D1**

- 8.034 On 4 March 2004 Intaka sent a letter to Shabalala, Head of Department, Provincial Treasury, KwaZulu-Natal. In terms thereof Intaka invited Shabalala and Professor Green-Thompson to Brazil "to view the healthcare system with specific emphasis on innovative technologies applied in the delivery of affordable health care services to the vast majority of the population. Once (sic) such technological innovation is Oxyntaka, the affordable oxygen manufacturing unit. The visit was planned from 20<sup>th</sup> to 23<sup>rd</sup> March 2004. Flights had accordingly already been confirmed and Intaka awaited Shabalala's response. The letter purports to have been signed by Dr Savoi, CEO, Intaka Investments. The diary retained by the office of Professor Green-Thompson for 2004, contains a handwritten note on 26 February 2004 at 14:00 "Dr Savoi- Oxygen Project", indicating Professor Green-Thompson had a meeting scheduled with Dr Savoi. I am unable to confirm whether the meeting in fact took place. The said diary also contains further entries on 20, 21 and 22 March 2004 "Trip to Brazil". **D1/1**
- 8.035 The SAPS provided me with copies of printouts from the Travellers Record System provided by the Movement Control Centre. These documents reflect the following in respect of travel from South Africa to Sau Paulo by Professor Green-Thompson and Shabalala: **D1/2**
- D1/3-4**
- D1/6-11**

| Date       | Name           | Direction | Flight # |
|------------|----------------|-----------|----------|
| 20/03/2004 | Green-Thompson | Departure | SA205    |
| 23/03/2004 | Green-Thompson | Arrival   | SA287    |
| 20/03/2004 | Shabalala      | Departure | SA205    |
| 24/03/2004 | Shabalala      | Arrival   | SA206    |

**E-mail from Dr Savoi to Shabalala dated 24 March 2004**

**D2**

- 8.036 On 24 March 2004 at 07:10pm Dr Savoi sent an e-mail to 'sipho@pixie.co.za' with the subject "THANK YOU". It commences "Dear Mr Shabalala". The writer (Dr Savoi) firstly thanked Shabalala and "Prof". Green-Thompson for making time to see **D2/1**

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Intaka's Oxygen plants working in some Brazilian hospitals, which would indicate to me that the trip to Brazil had already taken place. Dr Savoi further informed Shabalala that he (Dr Savoi) had already booked the rooms for Shabalala and "Prof" Green-Thompson at Steenberg hotel for the night of the 27<sup>th</sup> (I interpret this to mean 27 March 2004). Dr Savoi has also requested the flight details (of Shabalala and Professor Green-Thompson) so that he (Dr Savoi) could arrange their transfers from and to the airport.

8.037 Dr Savoi concluded as follows: *"On the other hand, as promised, I'm enclosing information about hardwood wood flooring and I will wait for your comments about the square meters of the area where you will put it and the colour of your preference"*. This appears to me to be a subject of a personal nature.

8.038 The diary retained by the office of Professor Green-Thompson for 2004, contains a handwritten note on 28 March 2004 at 09:00 *"Mtg in CT: Dr Savoi Oxyntaka"*. Alongside the said entry are *"Flight details"* for Durban Cape Town and Cape Town Durban for 27 and 28 March 2004 respectively. It further reflects *"no accommodation required"*.

D2/2

**A letter on an Intaka letterhead dated 29 March 2004**

D3

9.039 On 29 March 2004 Dr Savoi sent a letter to "Prof" Green-Thompson on an Intaka letterhead and copied it to Shabalala. In terms thereof Dr Savoi introduced himself to Professor Green-Thompson i.e. the introduction appears to have been made after Professor Green-Thompsons visit to Brazil, as the trip to Brazil took place according to Dr Savoi from 20- 23 March 2004, whilst Professor Green-Thompson in his affidavit stated that he and Dr Savoi were both on the trip and logic would indicate they met or were introduced on the trip. He further refers to a company he has formed called "Oxyntaka".

B1/4

B3/3

8.040 Dr Savoi then sets out details of the Oxyntaka plants. He further refers to *"an important feature of our plants is the continuous and constant flow of oxygen to the recipient"*.

D3/2

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*[Handwritten signature]*

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- 8.041 Dr Savoi further included the following: *"Oxyntaka has a significant Black Economic Empowerment stake including local KwaZulu- Natal participation. I would like to introduce a pilot project in the Province of KwaZulu-Natal. Our aim is to gradually introduce it to the entire public health system in the Province, as well as the rest of South Africa and Africa. In this regard, I would like to humbly request a meeting with you at your earliest convenience to discuss the matter further"*. D3/2
- 8.042 Professor Green-Thompson also referred to this letter in his affidavit (RGT1) and stated the following: *"I recall receiving the letter from Intaka. The purpose of the letter was to formerly introduce Intaka to me and Dr Savoi requested a further meeting to discuss their product. I recall that I received the letter around the time of my first meeting with Dr Savoi during which time I was introduced to him by Mr Shabalala. I do not know the reason why Mr Shabalala was copied on the letter but presume it was because he was the head of the Provincial Treasury"*. Professor Green-Thompson in his affidavit then referred to the delegation that went to Brazil as previously discussed by me. B3/2-3
- E-mail from Shabalala to Dr Savoi dated 1 April 2004** B3/3
- 8.043 On 1 April 2004 at 08:36am Shabalala sent an e-mail to Dr Savoi untitled and copied to Charles Tertia; I do not know who the latter person is. The e-mail read as follows: *"I have received your message sent to me and to Prof RW Green-Thompson. I am sure that Prof will revert to you with the response in due course"*. D4
- E-mail from Shabalala to Dr Savoi dated 14 April 2004** D5
- 8.044 On 14 April 2004 at 08:27pm Shabalala sent an e-mail to Dr Savoi titled *"Mrs Shabalala's details"*. The e-mail includes the following *"I have spoken to Prof as I have indicated. He assures me that he will move on both the issues we discussed by the close business tomorrow"*. It is concluded as follows: *"My wife's details are as follows: Beatrice Ntombenhle Ostrina Shabalalal, ID No 6901190332083, address: PO Box 1558, Pietermaritzburg, 3200"*.

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8.045 During the course of conducting the investigation into the procurement of water purification plants by the KZN Department of Local Government and Traditional Affairs from Intaka I identified an entity known as Skyros Medical. A Kreditinform Enquiry determined that Skyros Medical Supplies (Pty) Ltd (Skyros Medical), registration number 2004/010238/07 was registered on 20/04/2004, the Active Principals are Gaston Savoi id 521226 0000 000 and Beatrice Ntombenhle Otrina Shabalala ("Beatrice Shabalala") ID. 690119 0332 083, both appointed on 20/04/2004. I further understand that the latter is the wife of Sipho Shabalala. In terms of Gaston Savoi's affidavit the delegation to South America including Shabalala took place on 20 March 2004; whilst Gaston Savoi and Shabalala's wife registered Skyros Medical Supplies in April 2004, one month later. This was 6 days after the e-mail from Shabalala to Dr Savoi containing Mrs Shabalala's details. The above information obtained from Kreditinform was confirmed by the Registrar of Companies; however the status is recorded as "deregistration final".

D6/1-4

D6/1

D5/1-2

D6/5-7

**E-mail from Dr Savoi to Shabalala dated 11 May 2004**

D7

8.046 On 11 May 2004 at 10:30am Dr Savoi sent an e-mail to Shabalala repeated hereunder in its entirety:

*"Dear friend,*

*As per our last telephone conversation, I'm commenting as follows:*

*1. Company:*

*Under courier No. D01756244 Moores Rowland sent to your attention complete documents of your wife's co. Please acknowledge receipt, in order to go forward with the newco.*

*2. Oxyntaka:*

*The Oxyntaka unit is ready for delivery. On the other hand, I understand that all relevant documentation and information was given before and after the important trip to Latin America. The above mentioned documentation covers even the last request of Professor and includes BEE offer, technical side, comparison and benefits between Oxyntaka units and current supply etc. I must recognise that I'm looking anxiously to go forward with such important*

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